

DONALD WARREN NEUFELD, 30(B)(6) - 08/09/2018

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO

4 Case No. 3:18-cv-1554-EMC

5 -----x

6 CRISTA RAMOS, et al.,  
7 Plaintiffs,  
8 vs.

9 KIRSTJEN NIELSEN, et al.,  
10 Defendants.  
11 -----x

12  
13 VIDEOTAPE 30(B)(6) DEPOSITION OF  
14 U.S. DEPARTMENT OF HOMELAND SECURITY  
15 VIA ITS REPRESENTATIVE DONALD WARREN NEUFELD  
16  
17 Thursday, August 9, 2018  
18 Washington, D.C.  
19  
20  
21  
22

23 REPORTED BY:  
24 Susan Ashe, RMR, CRR  
25 Job Number LA-185456

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August 9, 2018

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9:47 a.m.

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Videotape 30(b)(6) deposition of U.S.

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DEPARTMENT OF HOMELAND SECURITY VIA ITS

12

REPRESENTATIVE DONALD WARREN NEUFELD, taken by

13

plaintiff, pursuant to subpoena, at Sidley Austin

14

LLP, 1501 K Street, Northwest, Washington, D.C.,

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before Susan Ashe, Certified Realtime Reporter,

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Registered Merit Reporter, and Notary Public within

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and for the District of Columbia.

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1 WASHINGTON, D.C.;

2 THURSDAY, AUGUST 9, 2018, 9:47 A.M.

3 --oOo--

4 VIDEOGRAPHER: Here begins the  
5 deposition of Donald Neufeld in the matter of Crista  
6 Ramos, et al., versus Kirstjen Nielsen, et al., in  
7 the United States District Court for the Northern  
8 District of California, San Francisco, Case  
9 No. 3:18-cv-01554-EMC.

10 Today's date is August 9, 2018. The  
11 time on the video monitor is 9:47 a.m. The video  
12 operator today is Akim Graham.

13 This video deposition is taking place  
14 at Sidley Austin at 1501 K Street Northwest in  
15 Washington, D.C.

16 Counsel, please voice identify  
17 yourselves and state whom you represent.

18 MR. KIRSCHNER: Adam Kirschner from  
19 the Department of Justice representing the  
20 defendants.

21 MR. SNELL: Kevin Snell from the  
22 Department of Justice representing the defendants.

23 MS. AFANEH: Tahani Afaneh from the  
24 Department of Homeland Security representing the  
25 defendants.

1 MS. SHAH: Liza Shah from the  
2 Department of Homeland Security representing the  
3 defendants.

4 MS. DEGEN: Alycia Degen from Sidley  
5 Austin representing plaintiffs.

6 MS. MacLEAN: Emi MacLean from the  
7 National Day Laborer Organizing Network,  
8 representing plaintiffs.

9 MR. AKMAL: Waqas Akmal for  
10 plaintiffs from Sidley Austin.

11 VIDEOGRAPHER: The court reporter  
12 today is Susan Ashe of Epiq Court Reporting.

13 Will the reporter please swear in the  
14 witness.

15 Whereupon,

16 DONALD WARREN NEUFELD,  
17 the Witness, called for examination, having been  
18 first duly sworn according to law, was examined and  
19 testified as follows:

20 EXAMINATION

21 BY MS. DEGEN:

22 Q. Thank you.

23 Mr. Neufeld, would you please state your  
24 full name for the record.

25 A. Donald Warren Neufeld.



1 Q. And would you spell your last name for us.

2 A. N-e-u-f-e-l-d.

3 Q. Thank you.

4 What is your current position?

5 A. I'm the associate director for service  
6 center operations.

7 Q. And with which agency?

8 A. USCIS.

9 Q. What does USCIS stand for?

10 A. United States Citizenship and Immigration  
11 Services.

12 Q. Thank you.

13 Have you had your deposition taken before?

14 A. Yes.

15 Q. How many times?

16 A. One other for sure, but I believe that  
17 there's been at least one or two before that. But  
18 years ago.

19 Q. Okay. Was the other one more recently?

20 A. Yes.

21 Q. And was it in a civil lawsuit?

22 A. Whatever this is.

23 Q. Similar to this?

24 A. Yes.

25 Q. Well, you've had your deposition taken

1 before, but let me just run through a couple of  
2 ground rules that will help us today and help our  
3 court reporter.

4 There is a transcript being prepared of  
5 your testimony today, and because of that, it is  
6 important that you and I not speak over one another.

7 I will try very hard to let you get your  
8 answers out before I jump in with another question.

9 And if you can try and let me get my  
10 questions out before you start to answer, that will  
11 just make it for a cleaner transcript and an easier  
12 job for our friend here taking down the testimony.

13 It also will be important that your  
14 answers be verbal answers.

15 So nodding head, shaking head,  
16 occasionally I may ask you to clarify if that's a  
17 yes or a no. It's just so we have a good  
18 transcript.

19 And the same thing with uh-huh or uh-uh.  
20 Those can be a little hard to get on the transcript,  
21 so I may ask for some clarification there.

22 Is that all right?

23 A. That's all right.

24 Q. Okay. If you need to take a break at any  
25 point, let us know. This is not a marathon,

1 although it will probably be a long day.

2 And just one other note about the  
3 questioning. If I ask a question and you don't  
4 understand it, please feel free to let me know.  
5 Otherwise, if you answer the question, I will assume  
6 that you understood what I was asking.

7 Do you understand that?

8 A. I do.

9 Q. Okay. So you understand that your  
10 deposition is being taken today in connection with a  
11 lawsuit. Right?

12 A. Yes.

13 Q. And the name of the lawsuit is Crista  
14 Ramos, et al., versus Kirstjen Nielsen, et al.

15 Before today's deposition, were you aware  
16 of this lawsuit?

17 A. Yes.

18 Q. Okay. And aside from your attorneys, how  
19 did you become aware of the lawsuit?

20 A. I actually don't remember when or how I  
21 became aware of this specific lawsuit. I'm aware  
22 that there are multiple lawsuits based or focused on  
23 the TPS decisions.

24 I don't remember how I came to be aware of  
25 that other than in my capacity. That information is

1 shared in the office.

2 Q. Okay. How is information about lawsuits  
3 shared within the office?

4 A. Sometimes I might receive an e-mail  
5 message.

6 There's usually -- I'm trying to think  
7 whether that happens in the TPS context.

8 I know that on the docket side, we get  
9 like a weekly update on the docket litigation.

10 I don't think there's something like that  
11 on TPS, but in my world there's litigation happening  
12 pretty much all the time, and so it's -- I'm  
13 generally aware of what's going on, but I don't have  
14 a lot of specific information unless like this, I'm  
15 getting ready to be deposed.

16 Q. Okay. Fair enough.

17 Aside from your attorneys, have you spoken  
18 with anyone at the agency about the TPS litigation?

19 A. Yes.

20 Q. All right. And who have you spoken with?

21 A. I have two subject matter experts that  
22 work for me, and there were two subject matter  
23 experts that work in the Office of Policy and  
24 Strategy, and then another person in our chief  
25 counsel's office.

1 Q. Okay. Can you tell me who those people  
2 are?

3 A. I will try.

4 So for me, the two subject matter experts  
5 that work for service and operations are Guillermo  
6 Roman-Riefkohl and Scott Massey.

7 For policy and strategy, Katherine  
8 Anderson and Brandon Prelogar.

9 Q. Okay. And how about Office of Chief  
10 Counsel?

11 A. Alice Smith.

12 Q. And have you spoken with any of these  
13 folks about TPS litigation before your deposition,  
14 or before your preparation for your deposition?

15 A. Before the preparation? Well, so the  
16 subject matter -- clarify your question, please.

17 Is it about litigation or just TPS in  
18 general?

19 Q. Sure. We're going to go through both, so  
20 let's start with about this litigation.

21 A. So about this litigation, prior to the  
22 deposition, no, I have not discussed it with them.

23 Q. Okay. I will come back to your  
24 discussions about TPS in general.

25 What is your understanding of the nature

1 of this litigation?

2 A. That the plaintiffs are contesting the  
3 decision to -- decisions to terminate TPS for the  
4 four countries in question: Nicaragua, El Salvador,  
5 Haiti and Sudan.

6 Q. And do you have an understanding on what  
7 grounds the plaintiffs in the different lawsuits are  
8 bringing their claims?

9 A. Generally, my understanding is that the  
10 decision was improperly, you know, based on --

11 COURT REPORTER: Could you not clap  
12 your hands?

13 THE WITNESS: Oh, sorry. It's going  
14 to be hard for me.

15 That the decision was based on, you  
16 know, other criteria than what should be considered.

17 Q. In preparation for your deposition, did  
18 you speak with anyone to get ready to testify today?

19 A. Other than the folks that I named, no.

20 Q. So you met with each of the subject matter  
21 experts and Ms. Smith from chief counsel's office in  
22 preparation for your deposition?

23 A. Yes, not today, but yesterday and the day  
24 before.

25 Q. Okay. How long did you spend in

1 preparation for your deposition yesterday?

2 A. Total, probably about four hours.

3 Q. Okay. And how about the day before?

4 A. More like six hours.

5 Q. And did you review any documents in  
6 preparation for your deposition?

7 A. Yes.

8 Q. What documents did you review?

9 A. The Federal -- excuse me. The most recent  
10 Federal Register Notices for these four countries.

11 Q. What else?

12 A. I reviewed a printout coming from our  
13 website on the eligibility criteria for TPS in  
14 general.

15 Q. What else?

16 A. That's it.

17 Q. Are there any documents that you would  
18 have liked to have reviewed that you didn't?

19 A. No.

20 Q. Did you bring any documents with you  
21 today?

22 A. No.

23 Q. Did you take any notes in preparing for  
24 your deposition?

25 A. No.

1 Q. Going through the five individuals you met  
2 with, the first two you described as subject matter  
3 experts, Scott Massey and Guillermo -- I'm sorry,  
4 could you say his last name again?

5 A. Roman-Riefkohl. Hyphenated.

6 Q. And how do you spell his last name, if you  
7 recall?

8 A. Roman, R-o-m-a-n, hyphen -- I might get  
9 this wrong, but I think it's R-e-i-f-k-o-h-l.

10 Q. Thank you.

11 Mr. Roman-Riefkohl, what is his subject  
12 matter expertise in?

13 A. So he is an adjudications officer, and he  
14 has had the portfolio of TPS and DACA and other  
15 things I'm sure, but those two for sure.

16 Q. What does an adjudication officer do?

17 A. So that's sort of -- it's a generic  
18 description.

19 In a service center, they would be the  
20 ones making decisions on cases, and I believe he  
21 used to do that.

22 In headquarters he is involved in helping  
23 my headquarters component provide guidance to the  
24 field, operational guidance in those subject matter  
25 areas.



1                   And he would represent Service Center  
2     Operations to other components within USCIS on those  
3     subject areas.

4           Q.     What might be helpful for me is to get  
5     just kind of a high-level overview of what Service  
6     Center Operations does.

7           A.     So in USCIS, we adjudicate requests for  
8     benefits, immigration benefits. And those requests  
9     that don't typically involve interviews are  
10    generally adjudicated in five service centers.

11                   And Service Center Operations is the  
12    component that includes those five service centers,  
13    plus myself and my headquarters component that  
14    oversees them.

15           Q.     So are you responsible for overseeing the  
16    five service centers?

17           A.     Yes.

18           Q.     Okay. How many people work underneath  
19    you?

20           A.     It varies, but now it's probably  
21    approaching 6,000.

22           Q.     How many of those people are in your  
23    headquarters?

24           A.     About 140.

25           Q.     And are the rest of them at these five

1 different service centers?

2 A. Yes.

3 Q. How long has Mr. Roman-Riefkohl been with  
4 the agency?

5 A. That I don't know.

6 Q. Can you give me an estimate of how long  
7 he's been with the agency?

8 A. Many years. I don't know how many years.

9 Q. How long has he worked with you? Maybe  
10 that's an easier question.

11 A. I believe he's been in headquarters -- I  
12 can say with certainty he's been in headquarters at  
13 least since 2015.

14 Q. Mr. Massey, what is his area of expertise?

15 A. The same as Guillermo.

16 Q. Is Mr. Massey also an adjudication  
17 officer?

18 A. Yes.

19 Q. And how long has he worked with you?

20 A. That I'm less sure of.

21 I think since at least 2015, but I'm not  
22 100 percent sure of that.

23 Q. You noted that Mr. Roman-Riefkohl has TPS  
24 and DACA in his portfolio.

25 What do you mean by "portfolio"?

1           A.     So we have the headquarters component; the  
2     140 people, you know, were organized into  
3     different -- in groupings, organizational  
4     components.

5                     And so we have an adjudications division.  
6     Within the adjudications division, there are  
7     multiple branches.

8                     He is in the branch that has in its  
9     portfolio the TPS and DACA subject matter.

10                    So we're an operational component. So  
11     that includes providing guidance and monitoring the,  
12     you know, performance of the centers in adjudicating  
13     those cases of TPS requests and DACA requests.

14                    And he is an officer that handles whatever  
15     issues might arise from the centers. If there are  
16     headquarters issues or discussions about TPS or  
17     DACA, he often would be the one representing us with  
18     other components, such as policy and strategy.

19            Q.     Does Mr. Roman-Riefkohl have any input  
20     into TPS extension or termination determinations?

21            A.     Not into the decisions.

22                    Our role -- it has changed over the years,  
23     but the -- when countries that have already been  
24     designated are coming up for consideration on  
25     whether to extend or terminate, there is a TPS

1 working group.

2 And I don't know who all the members are,  
3 but I know that it includes representatives from  
4 Service Center Operations, so Guillermo and Scott  
5 participate in that. Policy and Strategy  
6 participates in that as well. I believe counsel,  
7 and maybe our field operations component.

8 So when the extension decision is coming,  
9 needs to be made, that working group sort of  
10 shepherds the -- oversees the process of that.

11 And specifically, until relatively  
12 recently, Service Center Operations was the  
13 component responsible for getting the Federal  
14 Register Notice published once a decision had been  
15 made.

16 So we would draft the Federal Register  
17 Notice with input from other components.

18 And with respect to Scott and Guillermo,  
19 they're the individuals on my team that did that for  
20 Service Center Operations.

21 Q. Do they no longer draft the Federal  
22 Register Notice?

23 A. No. Since I think it was the last Haiti  
24 termination, the decision for Haiti, the last one,  
25 the Office of Policy and Strategy drafted the

1 Federal Register Notice.

2 Q. You said the last Haiti termination -- I  
3 think Haiti's only been terminated once -- well,  
4 there were multiple extensions.

5 I wonder if you can clarify.

6 A. Right. What I was trying to say is the  
7 last time we considered Haiti for extension, the  
8 decision was to terminate, and we did not prepare  
9 the FRN.

10 Q. Okay. Got it. Thank you.

11 I'm going to come back, I want to make  
12 sure we walk through the process so I can understand  
13 it, but let me make sure I double-check a couple of  
14 these other people.

15 You mentioned Ms. Anderson as another  
16 subject matter expert you met with in preparation  
17 for your deposition.

18 What is her area of expertise?

19 A. She and Brandon work in the Office of  
20 Policy and Strategy. I'm not sure what all their  
21 activities include, but I do know that they have  
22 been involved on TPS issues related to the  
23 extensions and designations of countries for TPS.

24 Q. How long have -- well, let me back up for  
25 a second.

1 Have you worked with Ms. Anderson outside  
2 of TPS issues?

3 A. Not that I recall.

4 Q. How about Mr. Prelogar?

5 A. Not specifically, but he is someone in the  
6 Office of Policy and Strategy that would attend  
7 meetings, at times, representing that office. So  
8 I'm sure it involved other subjects besides TPS, but  
9 I believe DACA as well.

10 Q. How long have you known Mr. Prelogar?

11 A. I don't know him well, but I've interacted  
12 with him probably, you know, many times in the last  
13 two or three years.

14 Q. And how about Ms. Anderson?

15 A. Less frequently, but probably covering the  
16 same time period, two years.

17 Q. Do you happen to know Ms. Anderson's  
18 title?

19 A. I do not.

20 Q. And how about Mr. Prelogar?

21 A. I don't.

22 Q. Ms. Smith, were you meeting with her as a  
23 subject matter expert?

24 A. Yes.

25 Q. And what is her area of expertise?

1 A. TPS and DACA.

2 MR. KIRSCHNER: To the extent that  
3 this is calling for attorney-client communications,  
4 I'm going to instruct you not to answer.

5 Q. Okay. Is Ms. Smith an attorney?

6 A. Yes.

7 Q. Okay. And were you meeting with her for  
8 the purpose of obtaining legal advice?

9 A. Yes.

10 Q. Were you also meeting with her for the  
11 purpose of obtaining background information on TPS?

12 A. Yes.

13 MR. KIRSCHNER: Object to the extent  
14 that Mr. Neufeld's not a lawyer and can't  
15 differentiate between necessarily what calling for  
16 legal conclusions and the difference between what's  
17 legal advice versus nonlegal advice.

18 Q. Has Ms. Smith had involvement in TPS  
19 determinations?

20 A. Not that I know of.

21 Q. Has Ms. Smith had involvement in  
22 preparation of Federal Register Notices?

23 A. Not that I know of.

24 Q. How about approval of Federal Register  
25 Notices?

1 A. Not that I know of.

2 Q. Do you have any understanding as to why  
3 you were meeting with her as a subject matter expert  
4 in preparation for your deposition?

5 MR. KIRSCHNER: Objection --

6 Q. Again, without giving legal advice.

7 MR. KIRSCHNER: I was just going to  
8 say, objection, assuming facts not in evidence.  
9 Assuming that he was meeting with her for purposes  
10 as a subject matter expert.

11 Q. Let me rephrase the question.

12 What is your understanding as to why you  
13 were meeting with Ms. Smith in preparation for your  
14 deposition?

15 A. Because of her legal knowledge of the  
16 program and the requirements, to give me guidance on  
17 how to prepare.

18 Q. Anything else?

19 A. She has a knowledge of the history of the  
20 program, but now all of our discussion was with  
21 respect to my preparation for this deposition and  
22 what to anticipate in terms of the lines of  
23 questioning, that sort of thing.

24 Q. Okay. A moment ago you mentioned the  
25 program. You were referring to the TPS program?



1 A. Yes.

2 Q. Did you receive any factual information  
3 from Ms. Smith that you used to, for example,  
4 refresh your recollection in preparation for your  
5 deposition?

6 A. Not that I recall.

7 Q. Did you receive any factual information  
8 from Ms. Smith that you did not previously know?

9 A. No.

10 Q. Do you have any understanding of how  
11 Ms. Smith has knowledge of the history of the  
12 program, the TPS program?

13 A. Well, she's an attorney. She works for  
14 the Office of Chief Counsel. And her areas of focus  
15 that I'm aware of have been on the TPS and DACA  
16 programs. So providing legal advice with respect to  
17 those two programs.

18 Q. All right. We've talked a lot about some  
19 other people. It probably will be good for me to  
20 get a little understanding of your background.

21 I understand you have been involved with  
22 USCIS in one capacity or other for quite some time.

23 Is that fair?

24 A. That's fair.

25 Q. Okay. Could you just give me just a quick

1 run down of your different positions.

2 A. Sure. So I started with INS, the  
3 legacy -- we grew out of INS. I'm guessing that  
4 you're familiar with that.

5 Q. Yes.

6 A. So in '83 I started with INS. I was a  
7 clerk. I became an officer. This is all out in  
8 Los Angeles. I became a supervisory officer in  
9 Los Angeles. A couple of different levels of  
10 management all in the Los Angeles district.

11 I went out to the Miami district then as  
12 a -- I won't say executive, but a high-level manager  
13 in the district there.

14 I went to headquarters. This is now  
15 probably 1999, my first time in headquarters.

16 My assignment there was in the Office of  
17 Production Management. I oversaw that program,  
18 basically monitoring production for all of the  
19 adjudication benefit -- or benefit adjudication  
20 component of then INS.

21 From there I went out to the California  
22 service center as its director, so I was a service  
23 center director.

24 Went back to Miami as the acting director.

25 Went to the Nebraska service center as its

1 acting director.

2 I'm trying to remember all these.

3 Then went back to headquarters as the  
4 chief of field operations, which was the component  
5 that oversees not the service centers but the other  
6 offices, domestic offices that adjudicate benefits  
7 involving interviews.

8 I became the deputy associate director for  
9 domestic operations, which was a component at the  
10 time that managed all the domestic operations other  
11 than the asylum offices.

12 We had a reorganization in 2010 that  
13 basically dissolved the domestic operations  
14 component and established Service Center Operations  
15 as its own directorate, and I became the associate  
16 director at that time.

17 So that was in January/February of 2010,  
18 and that's what I've been doing ever since.

19 Q. And I apologize, I know you said this. Is  
20 your title still associate director?

21 A. Yes.

22 Q. Is there a director of Service Center  
23 Operations?

24 A. Yes.

25 Q. And who is that?

1 A. No -- oh, director? I'm sorry, I  
2 misunderstood your question.

3 Q. I'm sorry. I apologize.

4 I have not worked in CIS, so if I mix up  
5 some of the titles and names -- let me ask that a  
6 different way.

7 You're the associate director of Service  
8 Center Operations.

9 Who do you report to?

10 A. I report to the deputy director of USCIS.

11 Q. And who currently has that role?

12 A. There's nobody permanently in that role.

13 The acting deputy director is Tracy  
14 Renaud.

15 Q. Roughly how long has Ms. Renaud been in  
16 that position?

17 A. Probably about a year.

18 Q. Did she work with USCIS before the current  
19 administration came in?

20 A. Yes.

21 Q. Do you recall what her role was before  
22 this administration?

23 A. When she's not the acting deputy, she is  
24 the associate director for management, the  
25 management directorate. And I believe she was in

1 that capacity towards the end of the last  
2 administration carrying into this administration.

3 I'm not sure exactly how long she's been  
4 in that position.

5 Prior to that, I'm sorry, but prior to  
6 that she was a deputy associate director for  
7 management.

8 Q. What does the management directorate do?

9 A. Basically, all of the administrative  
10 functions that are needed by the agency are managed  
11 and provided by the management directorate.

12 So they oversee the HR functions, the  
13 facility functions, budget.

14 Q. Sort of the back office side of the  
15 agency?

16 A. Yes.

17 Q. So if I understand correctly, you've been  
18 the associate director of Service Center Operations  
19 since the 2010 reorganization.

20 Is that right?

21 A. That's right.

22 Q. And before that you were the deputy  
23 associate director of domestic operations, which  
24 essentially rolled into Service Center Operations?

25 A. It broke up into many directorates that

1 included Service Center Operations.

2 So when I was the deputy associate  
3 director of domestic operations, included in my  
4 areas of responsibility was Service Center  
5 Operations.

6 Q. Thank you for clarifying.

7 The positions, and you've had a lot of  
8 them, but out of the -- the positions that you've  
9 had, which of those positions touched on TPS in any  
10 fashion?

11 A. Well, it's hard to say because I've had a  
12 number of positions.

13 When I was in the -- and it depends on  
14 what you mean by "touched on TPS."

15 So TPS holders have employment  
16 authorization, and they have evidence of that,  
17 Employment Authorization Documents, EADs.

18 And so when I was in the Miami district  
19 and Los Angeles district offices, I'm sure that we  
20 dealt with people coming in to get replacement EADs,  
21 which many years ago could have been provided by  
22 field offices.

23 Also, I managed the application support  
24 centers that would have been located in the  
25 jurisdictions of those districts.

1                   And that's where TPS applicants or people  
2   with TPS status would go in for their biometrics  
3   capture.

4                   Aside from that, when I was at the  
5 California service center, now that I'm thinking  
6 about it, I don't think at the time that I was there  
7 we had -- that center was involved in TPS  
8 adjudications. So correct that.

9                   As the deputy associate director for  
10 domestic operations, like I said, that included  
11 Service Center Operations. And Service Center  
12 Operations has always adjudicated the requests for  
13 TPS, the actual applications that the applicants  
14 would submit.

15           And now that I'm the head of Service  
16   Center Operations, it's the same thing. The  
17   requests for TPS are adjudicated at the centers that  
18   I oversee.

19 Q. Could you tell me just briefly what that  
20 adjudication process involves?

21           A.     So for TPS, there are two different types  
22     of requests.

23           One would be the initial TPS status.

24           The process is essentially -- it's pretty  
25   similar to both, but for the initial applications,

1 then they have to submit evidence of their  
2 eligibility.

3 So for TPS you need -- generally you need  
4 to demonstrate that you're a national of the country  
5 that was designated and that you have resided  
6 continuously since the date that was established  
7 when the designation was made.

8 And that process is that the applicant  
9 would submit an 821 form, which is the actual  
10 request for TPS status; and an employment -- a form  
11 that's for employment authorization. So the I-form,  
12 I-765.

13 Those are both adjudicated at the centers.

14 What differs is when we process an  
15 extension request, they have previously already  
16 demonstrated their eligibility, so for the most part  
17 what we're looking at is their ongoing eligibility.

18 So we run background checks and check  
19 their travel history.

20 Q. Anything else on the renewal?

21 A. Well, for both of them, if they -- when we  
22 approve them, then we initiate a card order if they  
23 requested an EAD to produce a card.

24 Q. Is there anything that would make someone  
25 ineligible for a renewal?



1           A.     So there's a requirement to reregister.  
2     They need to reregister.  If they don't, then we can  
3     withdraw their TPS.

4                   If they commit crimes that are  
5    disqualifying under the statute, then we can  
6    withdraw TPS, and if they don't -- if they've done  
7    something to break their continuous residence, in  
8    other words, taken up residence outside the country  
9    or traveled for other than a brief, casual, and  
10   innocent departure from the United States, then that  
11   can make them ineligible for TPS, and we will  
12   withdraw.

13 Q. How long does a renewal adjudication  
14 typically take?

15           A.    It depends.

16           As you can see, because they have already  
17   previously demonstrated their eligibility, it really  
18   matters -- what we're looking for is criminal  
19   history, you know, criminal activity since the last  
20   time they registered and traveled.

21           So if in our checks we come up with a  
22   background check hit or travel that needs to be  
23   reviewed, then those cases need to be referred to an  
24   actual adjudicator who would review and make a  
25   decision.

1           Those cases can take longer depending on  
2 other workloads that we have and the resources that  
3 we can apply to it.

4           It could be a couple months or it could be  
5 a year.

6           For cases that don't have those hits, so,  
7 you know, if the system doesn't flag a background  
8 check hit or travel, those, which are the majority  
9 of renewal requests, are in that category, then it's  
10 essentially an automated process.

11           At the end of it, an employee would  
12 initiate approval for the cases that have, you  
13 know -- where there isn't anything that needs to be  
14 substantively reviewed. Those can be adjudicated  
15 very quickly.

16           Once we have the -- well, we typically  
17 will send individuals back to an application support  
18 center to capture the biometrics. That process can  
19 take two or three weeks, the scheduling.

20           So all the cases would wait for that.

21           But cases that don't have any hits that  
22 need to be reviewed, then after that, once the  
23 system, you know, has conducted the checks and they  
24 show up on a report that there's nothing that needs  
25 to be reviewed, then those can be adjudicated really

1 quickly.

2 Q. So it's essentially a pretty automated  
3 process unless there's a hit and someone needs to be  
4 funneled for further review?

5 A. That's correct.

6 Q. Okay. With the employment authorization  
7 documents, do those have a -- when those are issued,  
8 they have an end date on them. Right?

9 A. Yes.

10 Q. Is there something that lets someone  
11 continue to work while an adjudication process is  
12 going on for TPS renewal?

13 A. Yes.

14 Q. And how does that work?

15 A. So if a renewal request is submitted  
16 within the 60-day time period that is required, then  
17 they are automatically -- the EAD that they had that  
18 would expire at the end of the last designation is  
19 automatically extended for a period of six months.

20 Q. For someone who's in an adjudication  
21 process, you mentioned that it sometimes can take up  
22 to a year. Is there also a process for them to get  
23 their EAD extended beyond this automatic six months?

24 A. Not that I'm aware of.

25 Q. And if someone -- if there's -- if

1 someone's EAD -- back up.

2 If that automatic six-month extension  
3 expires before someone's renewal request is being  
4 adjudicated, is there any process by which they can  
5 come in to, I guess, reapply for a new temporary EAD  
6 while they're waiting for the adjudication?

7 A. I think I need to correct my last answer.

8 So there's not a....

9 To my knowledge now, there's not a process  
10 for them to request, you know, something temporary  
11 to bridge the gap between the six-month extension  
12 and however long it takes to us adjudicate.

13 But we have the authority -- we can issue  
14 either an individualized notice that further extends  
15 their employment authorization or publish in the  
16 Federal Register a notice, essentially extending --  
17 further extending beyond the six months for whatever  
18 group of folks have not received their new EADs.

19 Q. And is that something you've done in past?

20 A. Yes.

21 Q. Do you recall doing it with respect to any  
22 of the four countries at issue in this suit?

23 A. It's tough to say.

24 I don't remember.

25 Q. That's fair enough.

1           A.    I actually think that we are in the  
2    process of sending individualized notices to a  
3    certain -- one of these countries, I don't remember  
4    which one, where we still have some pending requests  
5    that haven't been adjudicated.

6           Q.    Actually, that leads me to my next  
7    question, which is: When a TPS for a country is  
8    terminated and it is -- the termination is effective  
9    6 months, 12 months, 18 months after the decision  
10   date, do individuals have to come in and reregister  
11   after the notice of termination is issued so that  
12   they can continue to work through the final  
13   effective date of the termination?

14          A.    Yes.

15          Q.    And does that follow the same renewal  
16   reregistration process that you described earlier?

17          A.    Yes.

18          Q.    Are there any differences in the process  
19   where a termination notice has been issued?

20          A.    Not that I can think of.

21                   MS. DEGEN: All right. Let me go  
22   ahead and just mark before I forget my cleanup  
23   things here.

24                   We have what has previously been  
25   marked as Exhibit 1, the Second Amended Notice of

1 Rule 30(b)(6) Deposition to Defendant U.S.  
2 Department of Homeland Security.

3 (Whereupon, Exhibit 1, previously  
4 marked for identification, was presented to the  
5 witness.)

6 MS. DEGEN: Let me also produce here  
7 what has previously been marked as Exhibit 2, which  
8 is a July 13, 2018 letter from Mr. Rhett Martin to  
9 Sean Commons.

10 (Whereupon, Exhibit 2, previously  
11 marked for identification, was presented to the  
12 witness.

13 BY MS. DEGEN:

14 Q. Mr. Neufeld, have you seen this notice  
15 before?

16 A. I don't recall seeing it, but that doesn't  
17 mean that I definitely have not.

18 Q. Okay. And how about Exhibit 2 -- oh, I'm  
19 sorry.

20 A. Sorry. I'm sorry. Let me just look at  
21 the end here.

22 Q. Sure.

23 (Witness reading.)

24 A. Rereading it, I think that I have seen  
25 this, but I don't remember the context or, you know,

1 when.

2 Q. Okay. And how about Exhibit 2, the  
3 letter?

4 A. This I've definitely seen.

5 Q. Okay. Looking at....

6 A. I'm back on Exhibit 1.

7 I'm just trying to -- the difficulty for  
8 me is, again, I see lots of, you know, documentation  
9 related to litigation and I don't -- I just -- I  
10 don't know whether this is one of the ones that I've  
11 seen before or not one of the ones that I've seen  
12 before.

13 And I did just notice that the date on  
14 this is -- what was it, July?

15 This one is August 3rd and 9th, right?

16 So I can probably say that that means I  
17 have not seen this particular --

18 Q. This was dated July 20th, and it's simply  
19 the notice of your deposition, the 30(b)(6) notice  
20 that -- for which you've been designated.

21 We can turn to the letter that you do  
22 recall seeing.

23 A. Yeah.

24 Q. And if you look on page 1, down at the  
25 bottom, there's some italicized text listing some

1 topics for testimony.

2 Do you see that?

3 A. Yes.

4 Q. It's Topic 1 out of -- I'll just represent  
5 to you that that's Topic 1 out of the deposition  
6 notice in Exhibit 1.

7 Do you understand that you have been  
8 designated to testify as to those topics that are  
9 listed?

10 MR. KIRSCHNER: Objection, assuming  
11 facts not in evidence.

12 Q. If you can read what's listed there by  
13 point 1. And I'm happy to read it into the record  
14 if we need to.

15 MR. KIRSCHNER: I mean --

16 MS. DEGEN: I just want to make sure  
17 he understands what he's here to testify about.

18 MR. KIRSCHNER: No, I understand.  
19 It's that he hasn't been designated for that. He's  
20 been designated as described under the bullet point  
21 with his name.

22 BY MS. DEGEN:

23 Q. Okay. Well, why don't we turn to page 2.

24 And if you could -- do you see the first  
25 full bullet point on page 2?



1 A. I do.

2 Q. Okay. It starts Donald Neufeld, Associate  
3 Director?

4 A. Yes.

5 Q. Have you read that bullet point before?

6 A. I have.

7 Q. Okay. And do you understand that you've  
8 been designated to testify as described in that  
9 bullet point?

10 A. I do.

11 Q. Are there any corrections that you need --  
12 think should be made to the information described in  
13 that bullet point.

14 (Witness reading.)

15 A. I wouldn't necessarily say a correction.

16 The last piece of that that says that I  
17 can also testify generally as to the reasons stated  
18 in those notices historically dating back to 2008  
19 for the secretary's decisions, I clearly don't have  
20 them all committed to memory; and I can testify to  
21 what those reasons were if I see the FRN, but beyond  
22 that, I could not.

23 So I think it just depends on what is  
24 understood to be meant by what I can testify to  
25 generally as to the reasons stated in those notices.

1 Q. Are there any other clarifications that  
2 you think should be made here?

3 A. No.

4 Q. The letter notes that you work closely  
5 with other offices of USCIS, such as the Office of  
6 Policy and Strategy and the Office of Chief Counsel,  
7 which are involved in the TPS program.

8 Who do you work closely with?

9 A. So I personally would interact with Kathy  
10 Nuebel Kovarik, who is the chief of the Office of  
11 Policy and Strategy, and Craig Symons, who is the  
12 chief counsel, and Molly Groom, who is his deputy.

13 Q. Anyone else?

14 A. No. My staff would work with staff of  
15 those offices, which is included in that statement.

16 Q. Do you know who at those offices your  
17 staff works with as regards TPS?

18 A. I know that it would include the two names  
19 I've given before, Katherine and Brandon.

20 I don't know who else.

21 Q. And who on your staff were you  
22 referencing?

23 A. Scott Massey and Guillermo Roman-Riefkohl.

24 Q. Is there anyone else on your staff who is  
25 involved in any way in TPS determinations?

1           A.    It depends on what you mean by involved in  
2   determinations.

3                    Brandon and Scott both work in a branch  
4   that has a supervisor whose name is Alex King, and  
5   so he would oversee, you know, their activities.

6                    He has a supervisor, his division chief,  
7   Pamela Hutchings. She would oversee that as well.

8           Q.    So Scott Massey and Guillermo  
9   Roman-Riefkohl, their supervisor is Alex King?

10          A.    Yes.

11          Q.    And other than as a supervisor, has --  
12   Mr. King?

13          A.    Yes.

14          Q.    Okay. Mr. King been involved in TPS  
15   determinations?

16          A.    Again, it depends on what you mean by  
17   involved in determinations.

18                   We're an operational component, so we are  
19   not in any way involved in the decision to extend or  
20   not extend.

21          Q.    Let me ask my next question.

22                   Are you aware of Pamela Hutchings -- back  
23   up.

24                   The letter that's been marked as Exhibit 2  
25   notes that Mr. Neufeld and his staff also work

1 closely with other offices of USCIS, such as the  
2 Office of Policy and Strategy and the Office of  
3 Chief Counsel, which are involved in the TPS program  
4 including providing operational impact information  
5 as requested to help inform USCIS leadership and  
6 before the USCIS director makes his or her  
7 recommendations to the secretary regarding TPS  
8 extensions and terminations.

9           So does Service Center Operations provide  
10 operational impact information into the TPS  
11 determination process?

12           A.    Yes.

13           Q.    Okay. And who's involved in providing  
14 that information?

15           A.    Principally at the staff level, that's  
16 Scott Massey and Guillermo, but I have in the past  
17 myself.

18           Q.    Anyone else?

19           A.    No, not that I can think of.

20                   MR. KIRSCHNER: I just want to check  
21 in terms of how both you and Mr. Neufeld are doing  
22 in terms of a break and where we're at in terms of  
23 timing.

24                   MS. DEGEN: If folks are -- I think  
25 we're coming up right on an hour, so if folks would

1 like a break. You've got a good internal clock.

2 So we're fine taking a break now. As  
3 you can probably tell, we're about to start on a  
4 fairly lengthy list of questions.

5 MR. KIRSCHNER: That's the question  
6 now. I also have a pretty good sense of where one  
7 line of questioning is ending and another line of  
8 questioning is beginning.

9 MS. DEGEN: Why don't we take --  
10 maybe see if we can get back within ten minutes?

11 MR. KIRSCHNER: That's fine.

12 THE WITNESS: Awesome.

13 MR. KIRSCHNER: I defer to  
14 Mr. Neufeld.

15 VIDEOGRAPHER: Going off the record.  
16 The time is 10:46 a.m.

17 (Whereupon, a recess was taken.)

18 VIDEOGRAPHER: Back on the record.  
19 The time is 11:05 a.m.

20 MS. DEGEN: Mr. Neufeld, we are back  
21 from a break. And I understand your counsel had a  
22 couple of clarifying questions he thought would be  
23 helpful to ask right now.

24 MR. KIRSCHNER: Thank you.

25 I just had I think three, should be

1 quick questions.

2                   You were asked about what documents  
3 you reviewed in preparation of the deposition, and  
4 you listed a few documents.

5                   Is it possible that there may have  
6 been other documents that you didn't tick off on the  
7 top of your head?

8                   THE WITNESS: I suppose that is  
9 possible, but I don't remember others.

10                  MR. KIRSCHNER: Okay.

11                  THE WITNESS: I do remember one, now  
12 that I'm thinking of it.

13                  I was shown something related to this  
14 case that showed -- that had the -- I didn't read  
15 the whole thing, but there was, like, a matrix that  
16 showed what I think were factors that were cited in  
17 some Federal Register Notices that were not cited in  
18 other Federal Register Notices.

19                  MR. KIRSCHNER: And I'll ask for you  
20 not to hit the table.

21                  THE WITNESS: Sorry.

22                  MR. KIRSCHNER: Okay. And is it  
23 possible just that -- just to the extent that --  
24 just to make the record clear, I'm not saying if  
25 there is or isn't, but is it possible that there

1 might have been other documents that didn't come to  
2 mind when you listed them?

3 THE WITNESS: I suppose, yes.

4 MR. KIRSCHNER: Okay. Next you said  
5 and I'm -- I think you said that the EAD is  
6 automatically extended six months.

7 Is that always the case, or can there  
8 be fluctuations of the automatic extension of the  
9 EAD?

10 THE WITNESS: So I think it was last  
11 year there was a reg change for the reg that governs  
12 EADs that provided for the automatic extension of  
13 EADs for certain categories, and TPS reregistration  
14 renewals is one of them. But that's sometime I  
15 think in the last year.

16 Prior to that, extensions needed  
17 to -- for there to be an automatic extension, that  
18 language needed to be included in the Federal  
19 Register Notice, and it could have been for whatever  
20 length of time the secretary determined was  
21 appropriate.

22 MR. KIRSCHNER: Okay. And my last  
23 question is, you said something about having to  
24 reregister for EADs.

25 Did someone -- when there has been an

1 extension or an effective date for a termination  
2 down the line, do they have to reregister for EADs?

3 I guess my question is: How does  
4 that relate to the automatic extension, and what  
5 does it mean to reregister for getting an EAD?

6 THE WITNESS: So the extension I've  
7 been talking about is extending the Employment  
8 Authorization Document.

9 And so maybe I'm not quite  
10 understanding your question but --

11 MR. KIRSCHNER: Is there a difference  
12 between extending the employment authorization and  
13 extending the Employment Authorization Document?

14 THE WITNESS: Yes. The difference is  
15 that TPS holders are employment authorized, incident  
16 to their status; meaning, as long as they have TPS,  
17 they are authorized to work.

18 What they don't have, necessarily, is  
19 evidence of that employment authorization, which is  
20 the EAD.

21 And so the auto extension that I was  
22 talking about, that's with respect to the EAD, the  
23 document, not their eligibility for employment.

24 MR. KIRSCHNER: Thank you. Okay.  
25 That's the full set of my clarifying questions.



1 MS. DEGEN: Okay. Thank you.

2 BY MS. DEGEN:

3 Q. The matrix that you mentioned looking at,  
4 Mr. Neufeld, in preparation for your deposition, do  
5 you recall what countries were covered by that  
6 matrix?

7 A. No.

8 Q. And do you recall what time frame was  
9 covered by the notices described in that matrix?

10 A. No.

11 MS. DEGEN: Counsel, we would ask to  
12 have that matrix produced to us, please.

13 MR. KIRSCHNER: I could say on the  
14 record, it's the Court's opinion.

15 MS. DEGEN: Okay. We have that.

16 MR. KIRSCHNER: Sorry, I was going to  
17 say, as opposed to going back and forth about  
18 requesting documents that you already have.

19 MS. DEGEN: I appreciate that. Okay.

20 MR. KIRSCHNER: I apologize for  
21 talking over you.

22 BY MS. DEGEN:

23 Q. One follow-up question on the EADs.

24 What is the effect for someone if there is  
25 a gap between the EAD auto extension and issuance of

1 a new EAD?

2 A. Well, as I was saying earlier, they are,  
3 in fact, employment authorized until we would  
4 withdraw TPS or it's terminated.

5 Q. Okay. So they would have the right to  
6 work. They just wouldn't have any document that  
7 would allow an employer to hire them?

8 A. That's correct.

9 Q. Okay. All right. So before the break we  
10 were talking about individuals on your staff who  
11 provide inputs into the TPS determination process,  
12 and you mentioned that Mr. Massey and  
13 Mr. Roman-Riefkohl provide inputs and noted that  
14 sometimes you would also get involved.

15 In what context would you get involved in  
16 providing inputs into the process?

17 A. So not with respect whether to extend or  
18 not extend.

19 The operational interest comes in with --  
20 if there is a.... Let me think here.

21 Operationally, we don't -- this is a  
22 huge -- depending on the country, but for  
23 El Salvador, for example, there are many thousands  
24 of cases that would be, you know -- applications  
25 that would be coming our way. So our operational

1 concern is to not do that more frequently than we  
2 have to.

3 So an example of an input that we would  
4 give that is consistent all the time is that if the  
5 consideration is being given for how long to allow  
6 an extension, the secretary can consider giving  
7 either 6 months, 12 months, or 18 months.

8 Consistently, operationally, we suggest  
9 that an 18-month, you know, period would be the best  
10 operationally only because if there's a follow-on,  
11 you know, period, another extension or another  
12 period of time, then we -- that would involve a  
13 reregistration process that we would then have to  
14 deal with all the filings again.

15 So that would be -- our operational input  
16 would be if this is going -- if there's a chance  
17 that there would be another period that would follow  
18 the current period that's being considered for an  
19 extension or termination, that the longer the period  
20 that can be provided operationally is more efficient  
21 for us.

22 Q. So the longer period would mean the more  
23 time that would pass before people would need to  
24 reregister again?

25 A. Correct.

1 Q. Okay.

2 A. In a nutshell, if we're going to have  
3 repeat series of filings, we would rather do that  
4 every 18 months instead of every 6 months.

5 Another operational input would be for --  
6 in the past when the auto extensions weren't  
7 necessarily automatic by regulation, where they had  
8 to be included in the Federal Register Notice,  
9 again, because of the volume and the length of time  
10 it can take to process some cases, for us  
11 operationally, it's easier to have an auto extension  
12 that will cover the length of time that we think  
13 it's going to take to adjudicate the volume of cases  
14 that would be filed.

15 Q. Okay.

16 A. So back before it was by regulation, the  
17 secretary might not have even included an auto  
18 extension in a Federal Register Notice but would  
19 consider our recommendation that there be an auto  
20 extension for, say, six months.

21 Q. Okay. And, again, that is helpful because  
22 it reduces the volume of applications that you all  
23 have to process?

24 A. Overall, yes.

25 Q. Overall, okay.

1           If there was -- this recommendation of an  
2   18-month period versus a 6-month period, if a  
3   termination -- if it was likely that a termination  
4   was going to follow, would you have a different  
5   recommendation about how long the period would be?

6           MR. KIRSCHNER: I want to object to  
7   the extent that this question is calling for the  
8   agency's internal deliberations or recommendations,  
9   I would instruct you not to answer.

10           To the extent that you're talking  
11   about operational matters, feel free to answer but I  
12   want to just instruct you not to answer about  
13   internal agency deliberations.

14           A. Could you restate your question.

15           Q. Okay. So if a termination for a TPS  
16   country seems likely, just from an operational  
17   perspective, is there a difference between giving  
18   people another 6 months before it terminates versus  
19   giving them 18 months before termination?

20           A. No.

21           Q. And if we're looking at, say, an extension  
22   with likely the next decision being a termination,  
23   is there a difference operationally between that,  
24   you know -- a 6-month versus 18-month extension  
25   followed by a termination?

1 A. Yes.

2 Q. Okay. How so?

3 A. Because applicants would have to  
4 reregister for each of those periods, so 6 months,  
5 then again for whatever the period of time when the  
6 termination would provide.

7 And so the operational impact would be the  
8 short period, for the first one, 6 months, would  
9 mean that 6 months later we're looking at having to  
10 deal with the same volume all over again.

11 I do also want to correct -- I don't -- I  
12 don't think it's correct to say we make a  
13 recommendation for any of this. It's more we just  
14 describe what the operational impacts would be.

15 So I think it's -- it probably comes  
16 across clearly what we would prefer, but I wouldn't  
17 categorize it as us making a specific  
18 recommendation.

19 Q. Okay. I'm going to kind of just step back  
20 for kind of a broader question.

21 As the head of one of the directorates  
22 within USCIS, are there any regular management level  
23 meetings that you participate in with other heads of  
24 directorates?

25 A. Yes.

1 Q. Okay. What kind of regular meetings do  
2 you all have?

3 A. So our director or his deputy, depending  
4 on who's available, holds I think they're biweekly  
5 meetings that include the other associate directors  
6 but also program office chiefs.

7 They are standing meetings just to sort of  
8 give updates on what's -- for the director or the  
9 deputy to give their updates, you know, whatever  
10 information they think needs to be shared and for us  
11 to provide information to our colleagues and to the  
12 deputy and the director as well.

13 Q. And when you say "the chiefs of the  
14 offices," that includes the offices like the Office  
15 of Policy?

16 A. Yes.

17 Q. Okay. I'm just making sure I understand  
18 the terminology. Thank you.

19 Other than the heads of the directorates  
20 and the heads of the offices, are there other  
21 individuals who participate in these biweekly  
22 meetings?

23 A. Yes.

24 Q. Who else?

25 A. So at any given time, it can be any -- it

1 changes.

2 Typically, one of -- I forget -- I'm not  
3 sure what her -- their title is, but they are our  
4 front office, so the office of the deputy and the  
5 director, they have advisors, I think they call them  
6 senior advisors, I'm not 100 percent sure about  
7 that, but they typically join. They're not usually  
8 seated at the table; they sit in the back, but they  
9 contribute.

10 And depending on if there's something in  
11 particular being briefed, there may be others that  
12 are brought along with their principal  
13 representative to add whatever input or to hear  
14 their conversation.

15 Q. The advisors who come to these meetings,  
16 are those senior advisors to the director?

17 A. Yes.

18 Q. Do advisors to the heads of the  
19 directorates or the heads of the offices attend this  
20 meeting, also?

21 A. Occasionally.

22 Q. The senior advisors to the director, do  
23 you know who those -- well, let me ask: Do you know  
24 who those people are currently?

25 A. Yes.



1 Q. Who are they?

2 A. I know two of them. One is Karla Moran.  
3 The other is Kaitlin Stoddard.

4 Q. Were either of these individuals with  
5 USCIS prior to the current administration?

6 A. Yes.

7 Q. Who?

8 A. Karla Moran.

9 Q. And what was her role prior to this  
10 administration?

11 A. Well, her role has evolved under this  
12 administration. She's an enacting -- it's a detail  
13 position, so she's -- normally she's a senior  
14 advisor to me on my staff, but she's on a -- I think  
15 it's a six-month assignment to the front office as  
16 an advisor.

17 So prior to her current detail, which will  
18 soon be expiring, she was my senior advisor under  
19 this administration and the last administration.

20 Q. Can you give me an estimate of how long  
21 she has been with USCIS?

22 A. Years.

23 Q. A longtime employee?

24 A. Yeah, going back to before -- when we were  
25 INS.

1 Q. Okay. And Kaitlin Stoddard, can you give  
2 me an estimate of how long she's been with USCIS?

3 A. She came in with this administration, and  
4 she has -- I am not sure how those positions are  
5 categorized, but they're essentially political  
6 appointments.

7 Q. Okay. And do you have any understanding  
8 of what her background is?

9 A. No.

10 Q. And other than as a senior advisor to the  
11 director, has she had any other roles within USCIS?

12 A. No.

13 Q. Do you recall any other senior advisors to  
14 the director?

15 A. No.

16 Q. Do you know if Ms. Stoddard has had any  
17 role in TPS determinations?

18 A. I do not.

19 Q. Have you ever spoken about TPS with her?

20 A. No.

21 Q. And is it fair to say that TPS has been  
22 discussed at some of these biweekly meetings?

23 A. Yes.

24 Q. Well, let me just ask: This process with  
25 biweekly meetings, is that specific to this

1 administration, or is that something that carried  
2 over from prior administrations?

3 A. A version of this type of meeting has  
4 happened ever since I've been in headquarters, so  
5 the timing of it may have been weekly versus  
6 biweekly. It may have had a different name for the  
7 meeting.

8 But essentially there are standing  
9 meetings involving the associate directors and the  
10 program office chiefs and the front office, ever  
11 since I've been there.

12 Q. Are there agendas prepared for these  
13 meetings?

14 A. No.

15 Q. Does anyone keep minutes of the meetings?

16 A. Not that I'm aware of.

17 Q. Do you personally keep notes of the  
18 meetings?

19 A. No.

20 Q. Does anyone on your staff keep notes for  
21 you?

22 A. No.

23 Q. Where there have been discussions at these  
24 meetings concerning TPS --

25 A. Can -- I'm sorry.

1 Q. Oh, I'm sorry.

2 A. Can I go back?

3 Q. Of course.

4 A. I can't say that over the years I've never  
5 taken a note.

6 Q. Fair enough.

7 A. But I don't routinely take notes that, you  
8 know -- to memorialize what the subjects were and  
9 the content of those meetings.

10 Q. Okay. In these meetings where TPS has  
11 been discussed, which offices or directorates were  
12 involved in those discussions?

13 A. Well, these meetings, as I've said, have  
14 gone on for years and so the -- your question was  
15 with respect to who engaged in the conversation?

16 Q. Yes.

17 A. Typically that would be, you know, me as  
18 a -- representing the operational component, policy  
19 and strategy, whoever would be representing policy  
20 and strategy at the meeting at the time, and the  
21 Office of Chief Counsel, and the deputy or the  
22 director.

23 Depending on what in relation to TPS is  
24 being discussed at these meetings are also our  
25 external affairs folks. So that would be, you know,

1 our Office of Communications, Office of Legislative  
2 Affairs.

3 They might have issues that need to be  
4 discussed as far as communicating externally  
5 different issues, if it was an extension or whatever  
6 is in relation -- the process with TPS, sometimes  
7 that's how long it's taking us to adjudicate cases.  
8 There's any number of issues that could be talked  
9 about in relation to TPS at these meetings.

10 Q. Any of the other functions you can think  
11 of that have been involved in TPS discussions?

12 A. Over the years, yes, as part of the  
13 process, as I said, we collect biometrics and that  
14 process of collecting biometrics and the offices and  
15 the contractor who does that, that's all under a  
16 different directorate.

17 The acronym is IRIS, I don't remember off  
18 the top of my head what that stands for. I think  
19 it's Identity and Records Information Services, I  
20 think, but I am not sure.

21 Q. That is good.

22 A. But anyway, so depending, again, if it's  
23 an operationally focused discussion, then there have  
24 been times when, for example, it has been more or  
25 less difficult to schedule appointments for ASCs, or

1 for the Application Support Center.

2 Q. And so IRIS may be involved in discussions  
3 about the process of getting people --

4 A. Correct.

5 Q. -- through that in a timely fashion?

6 A. Yes.

7 Q. Okay. Besides these biweekly meetings,  
8 are there any other regular meetings that you have  
9 with the management level people?

10 A. So over the years there has been a  
11 standing meeting of the senior policy council --  
12 committee, I don't remember whether it was a  
13 committee or council, which is essentially comprised  
14 of the same people as the associate directors and  
15 the program office chiefs.

16 Those usually have agenda -- so the Office  
17 of Policy and Strategy leads those meetings. They  
18 usually have an agenda. There's usually teed up a  
19 particular policy issue for discussion.

20 I can't recall any of those with TPS being  
21 on the agenda, but I'm not sure.

22 The timing of those varies, but typically  
23 they've been monthly.

24 Q. You don't recall whether TPS was discussed  
25 at any of these senior policy council meetings?

1 A. I don't recall.

2 Q. Are there any other management level  
3 meetings that you participate in regularly?

4 A. No.

5 Q. At these biweekly meetings where TPS has  
6 been discussed, do you have any -- at just kind of a  
7 high level, how did the discussions come up?

8 A. Usually they're operationally focused or  
9 like the communications aspects of decisions that  
10 were made. So, again, how are we going to  
11 communicate on particular issues; or operationally,  
12 what are the impacts or processes that we're going  
13 to employ.

14 Sometimes it's just an acknowledgment that  
15 the process for consideration is being teed up for  
16 the secretary.

17 So, for example, when a country is, you  
18 know, approaching the end of the current  
19 designation, then the Office of Policy and Strategy  
20 would say, for example, you know, El Salvador is --  
21 you know, the TPS for El Salvador is expiring,  
22 whenever it's going to expire, and we're beginning  
23 the process of preparing the materials for that, for  
24 the secretary's consideration.

25 The general purpose of these meetings is

1 for folks to have visibility to what's going on in  
2 other components and for the deputy or the director  
3 to share information that they might have from  
4 whatever -- wherever they get it from, the  
5 department -- whatever's going on, and then for the  
6 components to flag anything that's sensitive or....

7 It's generally a meeting for -- to make  
8 sure everybody is aware of whatever the issues are  
9 that we're either seeing coming up soon or that  
10 we're currently facing.

11 Q. Sort of a here's what's going on kind of  
12 meeting?

13 A. Yes.

14 Q. Do you recall any discussions at these  
15 meetings about whether the director should recommend  
16 that TPS for a country be extended or terminated?

17 MR. KIRSCHNER: Objection to the  
18 extent that this question calls for internal  
19 deliberations about whether to extend or terminate  
20 TPS, I instruct you not to answer.

21 MS. DEGEN: Can he answer about  
22 whether that's something that would come up at these  
23 meetings versus -- I don't need to know the details  
24 of it right now. I know we've got objections that  
25 are being looked at right now by the Court.



1 Q. But are these meetings where TPS --  
2 questions of whether to terminate or extend TPS have  
3 come up?

4 A. No.

5 The fact that that is a question comes up  
6 with no discussion about the merits of, you know --  
7 for or against mixed in.

8 Q. You don't debate it in those biweekly  
9 meetings?

10 A. Right. No.

11 MR. KIRSCHNER: Also for  
12 clarification, I'm a little bit vague about the  
13 timeline that you're talking about because Mr.  
14 Neufeld had been talking for years.

15 I said that -- he had referred to  
16 meetings like this having been conducted for years.

17 MS. DEGEN: That's a good  
18 clarification.

19 BY MS. DEGEN:

20 Q. Has there, with respect to this question  
21 of whether -- back up a second and rephrase that.

22 In terms of the overall purpose of these  
23 meetings to give people visibility into what's going  
24 on, has that overall purpose changed for these  
25 meetings with the director from prior

1 administrations to current administrations?

2 A. No.

3 Q. Okay. And the question whether there were  
4 any discussions about whether to designate or extend  
5 TPS for a particular country coming up at these  
6 meetings, is there a difference between this  
7 administration and prior administrations?

8 A. No.

9 Q. When administrations change, how do you as  
10 a longtime staff person calibrate to a new  
11 administration's priorities?

12 A. We ask them what they are.

13 Q. I know this may seem like kind of a silly  
14 question but it's a genuine question.

15 Okay. Who do you ask?

16 A. Usually the director, sometimes Policy and  
17 Strategy, you know, the chief, whoever that might be  
18 at the time.

19 Q. And how do you go about asking them?

20 A. In the meetings I was just referencing.

21 They typically come in not trying to keep  
22 their priority a secret so there's many kinds of  
23 communications that might happen from broadcast  
24 e-mail messages to hallway conversations to  
25 executive orders that spell them out pretty clearly.

1 Q. For the current administration, how did  
2 these priority -- how did you ask or how did you  
3 find out about this administration's priorities? Is  
4 it the same kind of broad -- you mentioned broadcast  
5 e-mails, conversations, executive orders.

6 Was it the same kinds of communications?

7 A. Yes.

8 Q. Okay.

9 A. And the news.

10 Q. And the news. Okay.

11 Have you received any documents describing  
12 this administration's priorities as they relate to  
13 USCIS?

14 MR. KIRSCHNER: Objection; vague.

15 Q. Well, let me pick some of these out.

16 You mentioned some broadcast e-mails  
17 concerning the administration's priorities.

18 Have you received e-mails concerning this  
19 administration's priorities?

20 A. Yes.

21 Q. Okay. Did any of them relate to TPS?

22 A. Not that I recall.

23 Q. And are you aware of any executive orders  
24 that relate to TPS?

25 A. No.

1 Q. And how about conversations?

2 A. With respect to this administration?

3 Q. Yes.

4 MR. KIRSCHNER: I'm going to object  
5 to the extent that this is calling for internal  
6 deliberations of -- to the extent the question is  
7 calling for what those internal deliberations are,  
8 I'll instruct him not to answer.

9 MS. DEGEN: Okay. I think I'm not so  
10 much asking about deliberations concerning  
11 particular decisions but just understanding what's  
12 been communicated to him with respect to this  
13 administration's priorities as it relates to TPS.

14 A. I'm struggling with this because there  
15 hasn't been a communication in terms of priorities  
16 for TPS.

17 I have heard expressions of concern from  
18 this administration and the last administration that  
19 the temporary part of TPS seems to be difficult.

20 Q. How so?

21 A. In that some of these designations have  
22 been going on for, you know, 15, 16 years.

23 And I want to be clear that I have not  
24 heard anybody express as a priority the termination  
25 or, you know, a negative decision against them.

1 It's just the general -- the difficulty of dealing  
2 with what is supposed to be a temporary program and  
3 when is the appropriate time for them to wind down,  
4 and that it's a challenge.

5 Q. And how did you get an understanding of  
6 that concern? Was that in conversations, or was  
7 there some written communication?

8 MR. KIRSCHNER: Objection, again, to  
9 the extent this is calling for internal  
10 deliberations, I would instruct you not to answer  
11 whether it's from this administration or from a past  
12 administration.

13 Q. Does my question implicate internal  
14 deliberations in your mind?

15 A. I don't know what is meant by "internal  
16 deliberations."

17 Q. All right. Let me think here for a second  
18 how to do this a little better.

19 Well, you mentioned that you had not  
20 received a communication on this administration's  
21 priorities for TPS.

22 Do you have an understanding of this  
23 administration's priorities for TPS?

24 A. I'm not aware that they have a priority  
25 for TPS.

1 Q. Do you have an understanding of how TPS  
2 fits into this administration's overall priorities?

3 MR. KIRSCHNER: Objection; calls for  
4 speculation.

5 Q. You can answer it.

6 A. I don't know.

7 Q. If we wanted to talk to someone about how  
8 TPS fits into this administration's priorities, who  
9 would we talk to?

10 MR. KIRSCHNER: Objection; calls for  
11 speculation.

12 Q. You've been at the agency a long time. If  
13 you wanted to know how does TPS fit in with an  
14 administration's priorities, who would you go talk  
15 to?

16 A. The Chief of the Office of Policy and  
17 Strategy.

18 Q. Anyone else?

19 A. The director.

20 Q. Anyone else?

21 A. No.

22 Q. Do you recall who expressed concerns about  
23 the temporary part of TPS being difficult?

24 A. I was in a meeting at the department in  
25 which Gene Hamilton expressed that sentiment.

1 Q. Has anyone else expressed that?

2 MR. KIRSCHNER: Again, I'm objecting  
3 to the extent this is calling for internal  
4 deliberations, and instructing you not to answer.

5 Q. Who else was at the meeting?

6 A. This is over a year ago so my memory is  
7 foggy but I think Brandon Prelogar was there.  
8 I believe that Katherine Anderson was  
9 there.

10 I think Molly Groom, who is the deputy  
11 chief counsel, was there.

12 Beyond that, I know there were other  
13 people there, but I don't remember who they were.

14 Q. And do you recall what the purpose of this  
15 meeting was or what kind of meeting it was?

16 MR. KIRSCHNER: I'm going to object  
17 to the extent that now that you've identified  
18 counsel as well at this meeting, that I'm going to  
19 instruct you not to answer about the content of this  
20 meeting both in terms of the attorney-client and  
21 deliberative process.

22 Q. Was this at a regular standing meeting or  
23 some sort of special meeting?

24 A. Special meeting.

25 Q. Who calls special meetings at the agency?

1           A.     Whoever wants to hold a meeting can call a  
2     meeting.

3           Q.     And this special meeting, what was the  
4     purpose of the meeting?

5           A.     My understanding of the purpose was for  
6     Gene Hamilton to fully understand what options were  
7     available to the secretary in considering, I think  
8     it was related to the Haiti decision, the first  
9     under this administration.

10          Q.     Okay.

11          A.     So not whether -- we didn't engage in any  
12     discussion about whether it should be extended or  
13     not be extended.

14                 It was about understanding what are the  
15     options legally available to the secretary or, you  
16     know, what are their obligations.

17          Q.     Okay. Do you recall who called the  
18     meeting?

19          A.     I don't know that I knew at the time  
20     specifically, but my understanding was that it was  
21     Gene Hamilton that had called it.

22          Q.     Was Gene Hamilton at USCIS before this  
23     administration?

24          A.     He's not in US -- he was in the  
25     department, DHS, and not to my recollection. But I



1 don't know for sure.

2 Q. Thank you for clarifying, DHS, okay.

3 Have you worked with Gene Hamilton on any  
4 issues other than TPS?

5 A. DACA.

6 Q. And DACA. Any others?

7 A. No.

8 Q. So at this meeting, let me just make sure  
9 I -- Gene Hamilton, Brandon Prelogar, Katherine  
10 Anderson, you, Molly Groom, is there anyone else you  
11 can recall being at the meeting?

12 A. Gene Hamilton.

13 Q. And Gene Hamilton. And there may have  
14 been others, you just don't recall --

15 A. There were certainly others. I just don't  
16 remember who they were.

17 I don't know that I actually knew other  
18 than being introduced.

19 Q. Did you have any other special meetings  
20 relating to TPS besides this one?

21 A. Not that I recall.

22 Well, I understand you to mean any  
23 meetings at the department or at the -- or at USCIS.

24 So at the department, definitely I've never  
25 attended any other meeting at the department

1 regarding TPS.

2 Internal to USCIS, over the years, every  
3 time there's been an extension or a termination,  
4 depending on the circumstances, not all the time but  
5 usually there is a meeting to discuss the decision  
6 once it's been made on -- well, depending, again, on  
7 the -- on what it is.

8 But sometimes there's been special  
9 meetings called to discuss how we're going to  
10 "operationalize" the secretary's decision.

11 So notably in my mind is when Haiti was  
12 originally designated. That was a high volume, you  
13 know -- a country that we would expect a high volume  
14 of filers, and so it was operationally significant  
15 that we had to have a good plan to deal with that.  
16 And so there were several special meetings regarding  
17 that.

18 Q. And that was in connection with Haiti's  
19 original designation?

20 A. Yes. Yes.

21 Q. Okay. When you say "the department,"  
22 you're referring to Department of Homeland Security?

23 A. Yes. Yes.

24 Q. This meeting that you had with Gene  
25 Hamilton, how long did the meeting last?

1 A. Probably an hour.

2 Q. And when you say "it was at the  
3 department," it was at a particular -- it was not at  
4 the building that you sit in, you went to a  
5 different building for the meeting?

6 A. Yes.

7 Q. Thank you. I'm just trying to understand  
8 the -- the discussion.

9 And was there an agenda prepared for the  
10 meeting?

11 A. Not that I saw.

12 Q. Did anyone take minutes from the meeting?

13 A. Not that I've seen, that I'm aware of.

14 Q. And do you have any notes from the  
15 meeting?

16 A. No.

17 Q. Were there any recommendations that came  
18 out of the meeting?

19 MR. KIRSCHNER: Objection to the  
20 extent that this is calling for deliberations  
21 internal to the government, I instruct you not to  
22 answer.

23 Q. Timing-wise, this meeting that happened  
24 with Gene Hamilton, do you recall whether it  
25 happened before or after the Federal Register Notice

1 was drafted?

2 A. Before --

3 MR. KIRSCHNER: Object -- well, I'm  
4 going to object on vagueness.

5 I don't know -- when you say "the  
6 Federal Register Notice."

7 Q. Okay. Well, was there a draft Federal  
8 Register Notice that was prepared before -- that had  
9 been prepared before this meeting with Gene  
10 Hamilton?

11 MR. KIRSCHNER: Objection; again,  
12 vague about which Federal Register Notice, the  
13 context, the timing.

14 Q. Was there a Federal Register Notice  
15 regarding Haiti that had been prepared before this  
16 meeting with Gene Hamilton?

17 A. I don't know.

18 Q. Okay. A minute ago I think you said that  
19 a Federal Register Notice had been prepared before  
20 this meeting?

21 A. No.

22 Q. Okay.

23 A. If I did, I didn't intend to.

24 Q. Okay. All right. Well....

25 Thank you for that. Let me --

1 MR. KIRSCHNER: Also, I just, for the  
2 record, want it to be clear that my objections about  
3 the content of the meeting where I asserted  
4 deliberative process, I also want to assert  
5 attorney-client with those objections as well, given  
6 that Mr. Neufeld has identified counsel at that  
7 meeting.

8 Q. Did counsel provide any legal advice  
9 during this meeting?

10 A. I don't know what you mean by "legal  
11 advice."

12 The purpose of the meeting was to describe  
13 legally what is available to the secretary, and,  
14 yes, she commented and provided input on that.

15 Q. That was Molly Groom?

16 A. I think so.

17 Q. Okay. Do you recall what Gene Hamilton's  
18 role was at the time of this meeting?

19 A. I knew you were going to ask me.

20 I don't recall his title.

21 My understanding is, he would be advising  
22 and informing the secretary.

23 In what capacity, I don't know.

24 Q. And just process-wise, do you know what --  
25 the information that you all provide at this

1 meeting, what that was going to feed into, just  
2 process-wise?

3 A. Can you repeat that.

4 Q. We've heard about decision memos and, you  
5 know, some different inputs that go into -- written  
6 inputs into the TPS determinations.

7 Was it your understanding that this  
8 meeting -- the information you provided in this  
9 meeting would feed into one of those written inputs?

10 A. Not necessarily.

11 My understanding is that we were there for  
12 Gene Hamilton to understand what the decision --  
13 like, what are the options for the secretary in  
14 making the decision on whether to extend -- so how  
15 long to extend, how -- if it was terminated, what  
16 would -- what are the options there?

17 So, for example, if you terminate, it  
18 could be, you know, a 6-month period of extension,  
19 12-month, 18-month, those kinds of things.

20 If it was extended, how long -- what are  
21 the options for extension? You know, it can be 6  
22 months or 12 months or 18 months.

23 Can we -- you can decide -- the secretary  
24 could decide not to decide and then what happens  
25 there.

1           That was the explanation that was being  
2   provided so that he could have a clear understanding  
3   and could properly advise the secretary as to his  
4   options.

5           Q.    Okay.

6           A.    How that would be memorialized, I don't  
7   know.

8           Q.    Okay. Was it your understanding that this  
9   meeting was requested by the secretary?

10          A.    That was not my understanding.

11          Q.    This was something that Mr. Hamilton set  
12   up?

13          A.    Yes. Well, I think he set it up. He's  
14   who we met with. I assume he set up the meeting.

15          Q.    Okay. Do you recall whether Ms. Nuebel  
16   Kovarik was at this meeting?

17          A.    I do not recall.

18          Q.    I want to make sure that I understand the  
19   process that USCIS and then DHS, to the extent you  
20   have visibility into that, but especially USCIS, the  
21   process that it goes through to provide a  
22   recommendation to the DHS secretary and how that  
23   process may have changed over time.

24                   And maybe we can just start with, how does  
25   the process of making a TPS extension or termination

1 decision get rolling?

2 MR. KIRSCHNER: Objection; vague as  
3 to timing.

4 Q. So maybe what we can do, I know this is --  
5 I don't want to make this a totally irritating  
6 process so -- and my guess -- sorry, you are sitting  
7 in a deposition chair.

8 My guess is that there are some things  
9 that have been relatively similar over  
10 administrations and some things that may have  
11 changed over time.

12 Is that a fair characterization?

13 A. Yes.

14 Q. The process of kicking off a TPS review,  
15 has the process of getting started, has that changed  
16 over time?

17 A. Not that I'm aware of.

18 Q. Okay. How does it get started?

19 A. I referred previously to the TPS working  
20 group, which is -- you know, has representation from  
21 the various components that have a role to play in  
22 TPS, and that group generally manages the process  
23 within USCIS so they are aware of when designations  
24 are expiring and they look ahead and see what is the  
25 next country that is coming up for a decision, and



1 they will prepare a timeline of steps that need to  
2 occur to meet that deadline.

3 Q. Who prepares that timeline?

4 A. The group.

5 Q. Under this administration, who was  
6 responsible for preparing the timeline?

7 Let me just back up. Is there one person  
8 or one position that sort of owns the timeline?

9 A. No, not really.

10 The timeline isn't like something where  
11 there's a lot of flexibility. It sort of is what it  
12 is.

13 It's basically counting backwards from  
14 when the decision is due, and then the steps are the  
15 same regardless of administration.

16 At the heart of it, a recommendation memo  
17 needs to be drafted for the director to sign to go  
18 forward to the secretary.

19 To do that, USCIS will prepare a country  
20 conditions report. That part is handled by RAIIO,  
21 which is Refugee Asylum International Operations.

22 The State Department has do their  
23 assessment of country conditions and provide a  
24 recommendation.

25 And then the Office of Policy and Strategy

1 will pull that together and incorporate that into a  
2 recommendation memo, a draft memo that would go up  
3 for signature.

4 So the timeline is really just to map out  
5 when those things need to occur in order to be able  
6 to meet the deadline for a decision. And the group  
7 basically manages itself.

8 I think that over the years, whoever the  
9 service center operation's rep has been has sort of  
10 been the chair, but it's not a decision-making  
11 position. It's just to manage -- facilitate and  
12 manage the efforts to make sure that everything  
13 stays on task.

14 Q. Have you ever filled that role?

15 A. No.

16 Q. I think you mentioned Mr. Massey and  
17 Mr. Roman-Riefkohl as being the Service Center  
18 Operations individuals who participate in the TPS  
19 working groups. Do you know if either one of them  
20 filled this role?

21 A. I know that Guillermo Roman-Riefkohl has.  
22 I don't know whether Scott has.

23 Q. Okay. What is the typical timeline for  
24 this process that you've been describing?

25 MR. KIRSCHNER: Objection; vague.

1 Q. What's the typical timeline from  
2 initiating the preparation of a recommendation memo  
3 to delivery of the memo to the secretary?

4 A. I don't know the specific time frames.

5 I know that the secretary needs to make a  
6 decision 60 days before the termination, you know,  
7 the expiration. I believe that's the time frame.

8 And so then stepping back from that, I  
9 don't know specifically how much further in  
10 advance -- like, reaching out to the State  
11 Department to get their recommendation, I'm not sure  
12 of the timing of that.

13 Operationally, we want decisions to be  
14 made as far in advance as possible so that once the  
15 notice is published in the Federal Register, you  
16 know -- that would require folks to reregister, then  
17 the applicants can begin submitting their  
18 applications.

19 And so sort of the goal of this group is  
20 to try to tee that up to be a decision that can be  
21 made as early as possible so that the notice can be  
22 published as early as possible so that the filings  
23 can be coming in as early as possible so that we can  
24 adjudicate them all in time to meet the expiration  
25 of their EADs.

1 Q. Okay.

2 A. As far as the timing, I can say that it  
3 starts, you know, many months before the actual  
4 decision is due, but how many I don't know.

5 Q. Do you know whether Service Center  
6 Operations has chaired the working group under this  
7 administration?

8 A. Yes.

9 Q. And do you know in connection with which  
10 decisions Service Center Operations chaired the  
11 group?

12 A. I think that we have consistently chaired  
13 the working group, you know, going back many years.

14 Q. Besides Mr. Roman-Riefkohl and Scott  
15 Massey, are there any other Service Center  
16 Operations people who have participated in TPS  
17 working groups, so going back to 2008, that you can  
18 recall?

19 A. I know there have been. I don't know who  
20 they are.

21 Q. You know, you mentioned recalling that  
22 Mr. Roman-Riefkohl and Mr. Massey had been in  
23 headquarters since at least 2015.

24 Is there something about 2015 that that  
25 date sticks out for you?

1           A.    I know that yesterday in my briefing I  
2   asked them, you know, when they -- you know, what  
3   their knowledge, you know -- how long they could  
4   provide me information about the process, and that's  
5   when Guillermo conveyed that he had been with TPS  
6   since I think it was like July of 2015 or something  
7   like that.

8           Q.    Okay.

9           A.    I don't remember the month for sure.

10          Q.    Do you know who was involved in TPS before  
11   Mr. Roman-Riefkohl?

12          A.    I should, but I don't remember.

13          Q.    Okay. And Mr. Massey, how long had he  
14   been involved with this work in TPS?

15          A.    I think roughly the same period as  
16   Guillermo, but I'm not sure of that.

17          Q.    Okay. Let me just make sure I got the  
18   functions that are involved in this TPS working  
19   group.

20                   I think you mentioned Service Center  
21   Operations, Office of Policy and Strategy, counsel,  
22   and field operations.

23                   Are there any other functions that are  
24   involved in the working group?

25          A.    I don't think so.

1 Q. What is field operations?

2 A. That's the -- it's another directorate  
3 like the Service Center Operations directorate but  
4 they oversee the other field offices where the  
5 interviews are conducted for adjudications, for  
6 adjudicating cases.

7 I don't think that they have been very  
8 engaged in the working group because they don't have  
9 much of a role to play. But they would be involved  
10 in the biometrics capture, not because they oversee  
11 that program but that the offices -- the application  
12 support centers are staffed by people who work for  
13 field operations. So they have that piece of it,  
14 and then that's essentially it.

15 Q. The TPS working group, do they hold  
16 meetings?

17 A. Yes.

18 Q. Is that similar from this administration  
19 to prior administrations?

20 A. Yes.

21 Q. And how often do they meet?

22 A. That I can't say for sure.

23 My understanding is, it's fairly  
24 frequently, so probably at least once a month. And  
25 I believe that as the date is getting closer that

1 they meet more frequently.

2 Q. Do you know if agendas are prepared for  
3 these meetings?

4 A. I don't.

5 Q. Do you know if any minutes are kept of  
6 these meetings?

7 A. I don't.

8 Q. Do you know if there's anyone who takes  
9 notes from these meetings?

10 A. No.

11 Q. Who participates in the working group from  
12 Office of Policy and Strategy?

13 MR. KIRSCHNER: Objection; vague as  
14 to timing.

15 Q. Starting with under the current  
16 administration.

17 A. I don't know.

18 Q. Do you know for prior administrations?

19 A. I don't.

20 Q. And from current administration, who from  
21 counsel participates?

22 A. I don't know.

23 Q. Do you know under prior administrations?

24 A. I don't.

25 Q. And how about for field operations under

1 this administration?

2 A. I don't know.

3 Q. And prior administrations?

4 A. I don't know.

5 I should say I've never attended one of  
6 these meetings.

7 Q. That was going to be my next question.

8 Before your preparation for this  
9 deposition, were you aware that these meetings  
10 happened?

11 A. Yes.

12 Q. And how were you aware of that?

13 A. It would be mentioned in my staff meetings  
14 that there was a meeting with a TPS working group  
15 scheduled.

16 Q. So the process of preparing a  
17 recommendation memo for the director gets started,  
18 and you mentioned that USCIS prepares a country  
19 conditions report, and that that is RAIO, or  
20 R-A-I-O, who prepares that?

21 A. Yes.

22 Q. Did I get that right?

23 Do you know if there's a particular person  
24 or function within RAIO that's responsible for  
25 preparing country condition reports for TPS?



1 A. I know that there is but I don't know who  
2 they are or what that component is.

3 Q. As far as you know, is that a staff  
4 position?

5 A. Yes.

6 Q. It's not a political appointment position?

7 A. No.

8 Q. Is it your understanding that RAIIO has  
9 prepared country condition reports for multiple TPS  
10 determinations over the years?

11 A. Yes.

12 Q. Are you aware of any instruction that's  
13 been given to RAIIO about preparing country condition  
14 reports for TPS?

15 A. No.

16 Q. Are you aware of any document that  
17 describes the overall process of preparing a  
18 recommendation memo for the director?

19 A. No.

20 Q. Okay. Either relating to TPS or just  
21 generally?

22 A. No.

23 Q. Going back briefly to -- we had discussed  
24 earlier that Service Center Operations provides  
25 operational impact information into the TPS

1 determination process?

2 A. Yes.

3 Q. Okay. Is there a standard set of  
4 information that Service Center Operations provides?

5 A. No.

6 Q. How does it come up that Service Center  
7 Operations provides operational impact information?

8 A. So for the Federal Register Notice, that  
9 notice includes operational instructions. It  
10 includes information about the auto extension of the  
11 EAD, what the process is for reregistering, and we  
12 provide that input into that draft.

13 I myself have had conversations with, for  
14 example, Kathy Nuebel Kovarik on the auto extension  
15 piece of it. Basically, her confirming her  
16 understanding that auto extensions are good and how  
17 long should -- the longer the better.

18 And then in the early days of this  
19 administration, so with Kathy Nuebel Kovarik being  
20 newly in charge of Policy and Strategy, we had a  
21 telephone conversation, I think I recall, where we  
22 discussed the operational impact of shorter duration  
23 extensions versus longer duration extensions.

24 I think it's safe to say that our input  
25 into that is usually when there's somebody new who

1 doesn't know what historical input has been. Our  
2 input doesn't really change.

3 So really the -- once, say, Policy and  
4 Strategy is up to speed with what the operational  
5 impacts are -- what the operational impacts are of  
6 any TPS, you know, extension or termination, then we  
7 don't tend to -- we're not asked again information  
8 they already know.

9 It doesn't change from whether it's  
10 El Salvador or to Haiti or Honduras and Nicaragua,  
11 our input is the same.

12 Q. So if someone new were to come in to Kathy  
13 Nuebel Kovarik's role, you might educate them on the  
14 operational impacts, but otherwise once somebody is  
15 educated, they kind of -- you don't have ongoing  
16 input --

17 A. Right. They might come back and confirm  
18 their understanding but that would be the extent of  
19 it.

20 Q. Are you aware of any documents that have  
21 ever existed under any administration about the  
22 inputs that should go into a TPS determination?

23 A. No.

24 Q. Okay.

25 A. Other than the statute and the reg, but

1 actually I don't even know -- I don't know  
2 specifically what, you know, what -- what there is,  
3 but I'm assuming that there must be something there.

4 I think the statute requires consultation  
5 with the Department of State.

6 Q. Do you know how the consultation with the  
7 Department of State comes about?

8 A. What I know they do is, do the country  
9 assessment, and they make a recommendation.

10 Beyond that, I don't know.

11 Q. Do you have any visibility into the  
12 Department of State's process for --

13 A. No.

14 MS. DEGEN: Okay. I see that it is  
15 about 12:20.

16 I have another chunk of questions or  
17 would -- should we stop, break for lunch now?

18 MR. KIRSCHNER: How long are your  
19 chunk of questions do you think?

20 MS. DEGEN: It could probably go 20  
21 to 30 minutes. It's sort of up to you.

22 MR. KIRSCHNER: It's up to you.

23 THE WITNESS: Are you saying that we  
24 could end in 20 or 30 minutes?

25 MS. DEGEN: No. I'm just saying is

1 your tummy starting to growl and we should take a  
2 break?

3 THE WITNESS: I prefer to take lunch.

4 MS. DEGEN: Okay. Let's do that.

5 VIDEOGRAPHER: Going off the record.

6 The time is 12:21 p.m.

7 (Whereupon, the deposition recessed for  
8 lunch at 12:21 p.m.)

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1 A F T E R N O O N S E S S I O N

2 (1:05 p.m.)

3 VIDEOGRAPHER: Back on the record.

4 The time is 1:05 p.m.

5 BY MS. DEGEN:

6 Q. Okay. Mr. Neufeld, before we broke for  
7 lunch, we were talking about inputs into the TPS  
8 determination process, and you had mentioned that  
9 someone reaches out to Department of State to get  
10 input from them.

11 Are there any other agencies that this  
12 working group reaches out to to get input? And if  
13 it's changed over time, let me know that as well.

14 MR. KIRSCHNER: Objection, assuming  
15 facts not in evidence.

16 Q. Are there any other agencies that the TPS  
17 working group reaches out to for input into the TPS  
18 determination process besides Department of State?

19 MR. KIRSCHNER: Objection. To  
20 clarify that -- the fact that other than this is the  
21 working group reaching out to agencies, is assuming  
22 that the working group is the one reaching out.

23 Q. Then let me rephrase that.

24 Is there anyone who reaches out to  
25 agencies besides the Department of State for input

1 into the TPS determination process?

2 A. Not that I'm aware of.

3 Q. Are you aware of any agencies or  
4 departments other than Department of State providing  
5 input into a TPS determination?

6 A. No.

7 Q. Do you know whether USCIS consults with  
8 any agencies or departments besides Department of  
9 State in connection with TPS determinations?

10 A. No.

11 Q. Do you know whether Department of Homeland  
12 Security consults with any other agencies or  
13 departments in connection with TPS determinations?

14 A. I do not.

15 Q. Are you familiar with White House input  
16 into TPS determinations?

17 A. I'm not.

18 Q. Are you aware of any nongovernmental  
19 stakeholders in the TPS process?

20 A. In the determination process?

21 Q. In the determination process.

22 A. No.

23 MR. KIRSCHNER: And to clarify, these  
24 questions are across time?

25 Q. Across time. At any point.

1 A. My answers are still --

2 Q. The same?

3 A. -- accurate, yeah.

4 Q. Okay.

5 A. Well, hold on. I should say that I know  
6 that other governments, so -- but the government of  
7 a country can request designation or extension, and  
8 I know that that happens from time to time.

9 I've not been part of that process, but I  
10 know that happens.

11 Q. All right. So we have these inputs that  
12 come into the process country definition reports and  
13 Department of State information.

14 What's the next step in the process of  
15 getting a recommendation to the secretary?

16 A. The Office of Policy and Strategy will  
17 draft a recommendation memo for our director to sign  
18 and provide to the secretary.

19 Q. And has that responsibility to draft a  
20 memo always sat with the Department of Policy and  
21 Strategy?

22 A. As far as I know, yes.

23 Q. And within that office, who takes the lead  
24 on the first draft?

25 A. I don't know.



1 Q. Do you know under any administration?

2 A. No.

3 Q. Once Office of Policy and Strategy has a  
4 draft recommendation memo, what's the next step?

5 A. It goes to the director for his or her  
6 consideration and ultimate sign-off.

7 Q. Is there any internal review that happens  
8 of that memo before it goes to the director?

9 A. There has been at times a concurrence  
10 process.

11 So the draft would be -- there's a  
12 standing process for concurrence at the USCIS on any  
13 kind of correspondence or documentation, and it's --  
14 in the past that -- I'm aware that that  
15 recommendation memo -- recommendation memos have  
16 gone -- that draft recommendation memos have gone  
17 through that concurrence process before they --  
18 before it makes it up to the director for signature.

19 Q. Is there a standard procedure within USCIS  
20 for that concurrence process?

21 A. The concurrence process is standardized.

22 What gets submitted to it is not  
23 necessarily standardized.

24 Q. It sounded like some -- that  
25 recommendation memos went through this concurrence

1 process at some point in time, but not always.

2 A. That's correct.

3 Q. Okay. Can you explain when it went  
4 through, when it didn't?

5 A. So I know that recently there has not been  
6 a recommendation memo going through the concurrence  
7 process.

8 I don't know precisely when it stopped,  
9 and I can't say with certainty that since 2008 every  
10 single one of them has gone through that kind of  
11 concurrence process.

12 I have a recollection of seeing them at  
13 times over the years.

14 Q. What is the last recommendation memo that  
15 you recall going through the concurrence process?

16 A. I'm not 100 percent sure.

17 I think that for the first -- under this  
18 administration, the first time Haiti was being  
19 considered, I think that that recommendation memo --  
20 I don't know whether the final version went through  
21 the concurrence process, but I recall -- I'm pretty  
22 sure I recall seeing a draft of that for input.

23 But what I should say there is -- what I  
24 see -- as one of the components that would receive  
25 it for concurrence, my review of it is not so much

1 for what the recommendation is but to make sure that  
2 we understand it, that it's worded in a way that  
3 makes sense, not particularly with, do we agree or  
4 disagree with the recommendation.

5 Q. Okay. So, I'm sorry, were you finished?

6 A. I was going to say, so the concurrence  
7 isn't concurrence on the recommendation, it's on the  
8 draft that's being presented for signature.

9 Q. Okay. So if you had information that you  
10 thought needed to be shared relating to the draft,  
11 that would be your opportunity to share it?

12 A. Yes, but more often what it would be -- it  
13 would be grammatical changes, you know, to make  
14 something more clear, that sort of thing.

15 Q. Okay. Just generally, how does the  
16 concurrence process work in USCIS?

17 A. So there's the Office of the Executive  
18 Secretariat that manages that process, and I don't  
19 know that it has, you know, that it has been the  
20 exact same process over the years, but essentially,  
21 there is a list of, you know, parts of USCIS that  
22 should have an opportunity to make comments or  
23 suggested edits on correspondence or documentation  
24 of any sort.

25 And that process is standardized -- I'm

1 guessing over the years it probably has evolved, but  
2 now it's a -- now it comes out through e-mail. In  
3 the past, it came out through paper.

4 But, you know, essentially it's -- it  
5 provides access to the draft that's being -- to be  
6 reviewed and a process to make comments or suggested  
7 edits where it's clear what those are.

8 They're recorded, and then it goes --  
9 every component that is, you know, part of this  
10 process weighs in with a deadline to meet, you know,  
11 whatever the input is going to be to get it  
12 submitted within a certain time period. And then it  
13 goes back to the originating office for their use,  
14 whatever they -- however they -- it isn't -- the  
15 process doesn't -- it's the mechanics of the  
16 process. It doesn't -- the structure isn't  
17 necessarily what the receiving -- what the -- the  
18 component that puts something in the concurrence,  
19 there's nothing that prescribes how they need to  
20 then deal with the input that they receive.

21 It's pretty much information that they can  
22 make use of.

23 Q. So --

24 A. What we have an opportunity to do is say  
25 we concur. We concur with edits or we nonconcur.

1 Q. Okay.

2 A. And for any document, you know, usually it  
3 requires someone's signature, again, you know, some  
4 authority to say this is the final version.

5 And that person is usually often the  
6 director or the deputy. And my understanding is  
7 they use the information, so they will have  
8 visibility to whether the document that they're  
9 being presented had full concurrence by everybody or  
10 not. So they have visibility to, you know, what  
11 might have been issues in contention.

12 But normally the process itself results in  
13 a document that everyone has concurred with that  
14 goes up for signature.

15 But that -- I think I said earlier, that  
16 is not necessarily consistently the process for the  
17 recommendation memos for TPS.

18 Q. For TPS, okay.

19 Let's make sure I'm clear.

20 You mentioned that the last one you  
21 recall -- the last recommendation memo for TPS that  
22 you recall going through this concurrence process  
23 was the first Haiti one under this administration.

24 Is that the Haiti determination that  
25 resulted in the six-month extension?

1 A. Yes.

2 Q. Okay. Did you ever receive any  
3 explanation as to why the recommendation memos  
4 stopped going through the concurrence process?

5 A. No.

6 Q. Do you have any understanding as to why?

7 A. No.

8 Q. Is there still a concurrence process in  
9 place more generally?

10 A. Yes.

11 Q. And do you know who at the Executive  
12 Secretariat manages the process under this  
13 administration?

14 A. I do. I know her first name is Gemma, and  
15 now for the life of me, I can't remember what her  
16 last name is.

17 Q. Button?

18 A. Yes.

19 Q. Okay. We've seen a lot of names on  
20 documents. Thank you.

21 Other than the concurrence process, is  
22 there any other process in place now for other  
23 directorates to provide input on a recommendation  
24 memo for TPS?

25 A. Not that I'm aware.

1 Q. Other than the recommendation memo --  
2 actually, let me back up one second.

3 Does the concurrence process involve all  
4 of the different directorates and offices within  
5 USCIS?

6 A. I believe so, yes. I'm sure it includes  
7 all of the directorates. I'm not sure that every  
8 program office is included.

9 Q. Okay.

10 A. I know that many are. I just can't think  
11 of any that are not.

12 Q. And do you know if there is some sort of  
13 written SOP that deals with the concurrence process?

14 A. I'm sure there must be, but I don't know  
15 what --

16 Q. This is a government-held job.

17 A. Yes.

18 Q. Do you know who I would ask if I wanted to  
19 get that SOP?

20 A. Gemma Button.

21 Q. In connection with the recommendation  
22 memo, are there other documents that are prepared in  
23 conjunction with the recommendation memo?

24 And if it's changed over time, let me  
25 know, and we'll break it up.

1           A.     Yes.   So the Federal Register Notice in  
2   the past was prepared usually concurrently with the  
3   recommendation memo with the idea being that it  
4   would be ready for publication once the secretary  
5   made a decision.

6           So the risk there has always been that the  
7    decision wouldn't be what folks thought it might be,  
8    and then it would have been wasted effort.

9 But for years the two were developed  
10 basically at the same time.

11                   And then....

12               So as I described the recommendation memo,  
13       that has always been the responsibility for Policy  
14       and Strategy.

15           The Federal Register Notice was -- is a  
16   document that Service Center Operations managed the  
17   process. So we -- I won't -- I want to be sure to  
18   not characterize it as that we had any authority as  
19   far as like what was included in it, but we would  
20   draft it based on what we thought needed to be  
21   included in there.

22                   And a lot of it is about the operational  
23    process, which is why I think historically it had  
24    fallen to us.

25 But since.... A piece of that is the -- a



1 description of the -- why the decision that was made  
2 is being made, or was made, you know, why the  
3 decision was -- is what it is.

4 And with the -- so in the past, we would  
5 have -- we used information from the conditions  
6 report that RAI0 would produce.

7 We would -- we in Service Center  
8 Operations would pull information from that that we  
9 thought would likely be pertinent.

10 All of this is, again, just trying to  
11 speed up the process so that we wouldn't be waiting  
12 for the FRN to be issued once the decision was made.

13 So we would draft sort of notional  
14 language that would be put in there as the  
15 explanation for the decision that hadn't even been  
16 made yet.

17 With the last Sudan determination, we did  
18 draft the FRN, but we left that section that  
19 explains the decision blank for the Office of Policy  
20 and Strategy to fill in.

21 And then with the most recent Haiti  
22 determination, we didn't even draft the FRN. That  
23 was turned over to Policy and Strategy as well.

24 Q. And how about with the most recent  
25 El Salvador, Nicaragua FRNs?

1           A.     So I get the order of these things mixed  
2     up, but I know that Haiti, because I asked Haiti,  
3     was the last one that we -- was the first one that  
4     we did not do the FRN for. So whatever ones came  
5     after that, we did not do the FRN.

6           Q.     Okay. And how did this transition on  
7     drafting the FRN come about?

8           A.     I'm not sure precisely if it was directed  
9     or just a group decision that that's what made sense  
10    to do.

11                   Again, the FRN really is a document that  
12    only can be finalized once you know what the  
13    decision is going to be because it just announces  
14    the decision and then explains the basis for the  
15    decision and then the operational process that needs  
16    to follow from that.

17                   And the difference now is that the  
18    decisions are less foreseeable what they're going to  
19    be.

20                   So the effort involved in developing the  
21    FRN for one of those possible outcomes is not as  
22    worthwhile.

23                   If you don't know what the likely decision  
24    is going to be, then you can't really draft  
25    something that's explaining what that decision that

1 hasn't happened yet was based on.

2 And so I don't know whether it was, you  
3 know, somebody directed it, I'm guessing it wasn't;  
4 it was probably just that Policy and Strategy said,  
5 you know, we'll take this and we'll do it once the  
6 decision is made.

7 Q. Okay. How did you learn about the change?

8 A. By talking to my staff in preparation for  
9 this.

10 Q. Okay. So that would be -- I'm sorry --  
11 Guillermo whose last name I keep having trouble with  
12 and Mr. Massey?

13 A. Yes.

14 Q. Okay.

15 A. I will say that I have a recollection of  
16 knowing that we were no longer doing the FRNs that  
17 predated, you know, the last couple of days, but I  
18 don't -- I didn't really remember any specifics  
19 related to that until I talked to them.

20 Q. Okay. When Service Center Operations was  
21 doing the FRN drafts, were there -- did they have a  
22 draft of the recommendation memo already at the time  
23 they were putting those together?

24 MR. KIRSCHNER: Objection; vague,  
25 confusing.

1 Q. Let's see if I can clarify that a little  
2 bit.

3 During the period when Service Center  
4 Operations was drafting the FRNs in connection with  
5 the recommendation memo, do you know whether the  
6 recommendation memo was drafted first, then the FRN,  
7 or were they sort of moving forward in parallel?

8 A. I think that they were being drafted in  
9 parallel. Again, it's a working group that's  
10 working on this, so they're communicating with each  
11 other.

12 I don't know that my folks necessarily had  
13 visibility to the actual language in the  
14 recommendation memo, but they had an understanding  
15 at least of the direction that it was going.

16 Q. And what's your understanding of why  
17 decisions now are less foreseeable?

18 MR. KIRSCHNER: Objection; calls for  
19 speculation.

20 Q. You can answer.

21 A. I don't know why they're more  
22 questionable.

23 I just -- it's a fact that the information  
24 coming into the working group, you know, from others  
25 like, generally from Policy and Strategy, in the

1 past I think it was more -- I don't know why, but  
2 there was more clarity and understanding which way  
3 the director was inclined to go and then which way  
4 the secretary was inclined to go.

5 And so why that has become less clear, I  
6 don't know.

7 Q. Is there a point at which it started to  
8 become less clear?

9 A. I think with the first one.

10 Q. Under this administration?

11 A. Yes, under this administration.

12 Q. How did the direction become less clear  
13 under this administration?

14 MR. KIRSCHNER: Objection; vague.

15 Q. You noted that -- and I'll rephrase that.

16 You noted that in the past, there was more  
17 clarity as to where the director was going to go and  
18 where the DHS secretary was going to go with their  
19 TPS determinations.

20 How has it become less clear under this  
21 administration?

22 A. I think it's the other way around.

23 It used to be clear. It stopped being  
24 clear, like there were messages coming that would  
25 say -- my understanding through Policy and Strategy,

1 that there were communications from above as to  
2 which way they were going, and then that just --  
3 that stopped happening.

4 Q. So let me make sure I understand that.

5 So under prior administrations, there  
6 would be some communications funneling their way  
7 down in the process as to what direction the  
8 determination was going to go, and then under this  
9 administration, those communications stopped?

10 A. Yes.

11 Q. Okay. And the communicat- --

12 A. I --

13 Q. I'm sorry, please go ahead.

14 A. I also know that with the first Haiti --  
15 the one that ended up in the six-month extension,  
16 that it was communicated that the secretary was  
17 having difficult -- was struggling with that  
18 decision.

19 MR. KIRSCHNER: I'm going to  
20 interject that to the extent you're going to talk  
21 about internal deliberations, I'll instruct you not  
22 to answer.

23 MS. DEGEN: I shouldn't ask him in  
24 what way was the secretary struggling?

25 Let me ask it so you can put....

1 Q. In what way was the secretary struggling?

2 MR. KIRSCHNER: To the extent this is  
3 talking about internal deliberations, I'll instruct  
4 you not to answer.

5 Q. How did you come to understand that the  
6 secretary was struggling with the first Haiti  
7 decision?

8 A. I think I remember fairly clearly one of  
9 these biweekly meetings that I was telling you about  
10 earlier that the -- it might have been the deputy  
11 just conveyed in that meeting that the secretary was  
12 having -- I won't say difficulty, was struggling  
13 with a decision, and it wasn't clear what the  
14 decision was going to be.

15 Q. Okay. And previous to this  
16 administration, how would you find out what the  
17 final determination for a TPS review would be?

18 A. You mean the secretary's decision?

19 Q. The secretary's decision, thank you.

20 A. It would be announced. Probably the first  
21 time I would hear about it would, again, be at one  
22 of those meetings. But it might -- I'm sure at  
23 times it has been, you know, an e-mail message from  
24 the director or from someone in Policy and Strategy.

25 Q. And how about under this administration?

1 A. The same.

2 Q. Once a recommendation memo goes from the  
3 working group -- let me actually back up a second.

4 Who actually sends the -- let me back up  
5 one more step.

6 I had asked you what documents are  
7 prepared in addition to the recommendation memo, and  
8 you mentioned the Federal Register Notice.

9 What other documents are prepared in  
10 connection with the recommendation memo for TPS?

11 A. Other than the country conditions report  
12 that I mentioned before and State Department's  
13 assessment and recommendation, I'm not aware of  
14 anything.

15 Q. So we have the country condition reports,  
16 the State Department recommendation, the actual  
17 recommendation memo, and prior to fairly recently, a  
18 draft Federal Register Notice?

19 A. Yes, that would all be prepared. I don't  
20 know what ultimately was -- you know, in the past --  
21 either in the last administration or this  
22 administration, I don't know what ultimately was  
23 presented to the director for signature other than  
24 the memo.

25 In other words, I don't know whether the



1 memo had attached to it the assessments and the  
2 State Department recommendations or not. I just  
3 don't know.

4 Q. Okay. Who actually provides the  
5 recommendation memo and whatever else may go with  
6 it? Who actually provides that to the director?

7 A. It's Policy and Strategy.

8 What I don't know and the reason why I'm  
9 hesitating is I don't know whether that goes through  
10 the Executive Secretariat or if there's some other  
11 way that it gets to the director's desk.

12 Q. In the ordinary course, do documents go  
13 through the Executive Secretariat to the director?

14 A. In the ordinary course, but I'm certain  
15 that there are exceptions as well.

16 Q. What's your understanding of the Executive  
17 Secretariat's role?

18 A. Essentially the traffic cop, to make sure  
19 that things get done.

20 They're not reviewing for content, that's  
21 for sure, or even grammar or any of that.

22 It's just really to make -- to manage the  
23 process of either getting concurrence within the  
24 agency if that's what is expected or to make sure  
25 that material that's being presented to the director

1 for signature is, you know, formatted properly and  
2 presented in a way -- I don't -- I'm -- I haven't  
3 had visibility to how the front office works, but  
4 it's managing the process of getting something in  
5 front of the director.

6 And I know that often that they do that.

7 I also know that sometimes things just get  
8 handed to him or her by whoever is presenting it.

9 Q. If something is handed to the director, is  
10 there an expectation that a copy would also go to  
11 the Executive Secretariat?

12 A. I don't know.

13 Q. Have you ever handed the decision memo  
14 directly to the secretary?

15 A. In -- no.

16 Q. Okay.

17 A. It's the easiest answer.

18 Q. You would use the secretariat?

19 A. Yes.

20 MR. KIRSCHNER: Just for clarity, are  
21 you talking about the director of USCIS or the  
22 Secretary of Homeland Security?

23 MS. DEGEN: The director of USCIS.

24 MR. KIRSCHNER: Okay. And I believe  
25 you had mentioned -- I believe you had --

1 MS. DEGEN: Did I say "secretary"?

2 MR. KIRSCHNER: Yes.

3 MS. DEGEN: Thank you for clarifying.

4 A. I answered for director.

5 Q. Okay. To make sure the record is clear,  
6 you have not handed a decision memo directly to the  
7 director of USCIS?

8 A. No.

9 Q. Okay. You used the Executive Secretariat  
10 to get decision memos to the director?

11 A. Yes.

12 Q. Do you have any understanding of how  
13 decision memos go to the secretary of DHS?

14 A. No.

15 Q. If I wanted to find out, who would I talk  
16 to?

17 A. Probably Gemma Button.

18 Q. Do you know what is in the package that  
19 the USCIS director sends to the DHS secretary for  
20 TPS determination?

21 A. I do not.

22 Q. So going back to the memo -- a  
23 recommendation memo and whatever goes with it goes  
24 to the director. It's with the director.

25 What's the next step in the process of

1 getting something up to the DHS secretary?

2 A. I know that it goes to the DHS secretary.

3 I don't know how it gets there or, you  
4 know, who might -- I just don't have any visibility.

5 I know that it needs to get from the  
6 director to the secretary, and how it gets there I  
7 don't know.

8 Q. Do you have an understanding of what  
9 happens within DHS once a memo has been sent to the  
10 secretary?

11 A. No.

12 Q. I think I had already asked this.

13 Going back to the change in decisions, how  
14 foreseeable decisions were. And you noted that  
15 prior to this administration, there had been more  
16 clarity in where the decisions were going to go.

17 How far back does that increased level of  
18 clarity go?

19 A. So I should say -- well, I guess I -- I'm  
20 trying to think of my time in headquarters, and it  
21 does go back to 2008.

22 I don't remember any time until recently  
23 that once we knew what the recommendation from the  
24 director was to the secretary that there was much  
25 doubt that that would be the final decision.

1 Always the possibility of a different  
2 decision, but the expectation was that it would  
3 likely be followed.

4 Q. Okay. So until recently, if the USCIS  
5 director made a recommendation to the DHS secretary,  
6 you would generally expect that that recommendation  
7 would be the final decision?

8 A. Yes.

9 Q. Okay. Do you have any understanding of  
10 the role of the DHS Office of Policy in TPS  
11 determinations?

12 A. I don't.

13 Q. And I've seen some references to the  
14 Regulatory Coordination Division of USCIS.

15 Do you know what that division is? Are  
16 you familiar with that division?

17 A. Vaguely.

18 Q. What's your understanding?

19 A. They're a component within the Office of  
20 Policy and Strategy that manages the regulatory  
21 process for USCIS.

22 Q. What do you mean by "regulatory process"?

23 A. The process for deciding what the  
24 priorities are, you know, what's going to be on the  
25 regulatory -- the list of regulatory priorities, and

1 then the process for developing the Notice of  
2 Proposed Rulemaking, interim final rules, final  
3 rules, the mechanics of getting regs promulgated.

4 Q. Do you know who is in the charge of the  
5 Regulatory Coordination Division now?

6 A. I don't remember.

7 Q. Do you recall anyone who's been in that  
8 position in the past?

9 A. No.

10 Q. Did the Regulatory Coordination Division  
11 manage the process for the fairly new 60-day  
12 automatic extension regulation you mentioned  
13 earlier?

14 A. It's a six-month automatic extension.

15 Q. I'm sorry, six months. You're good.

16 Did the Regulatory Coordination Division  
17 manage the process for that six-month automatic  
18 extension regulation?

19 A. Yes.

20 Q. And in that process, did they receive  
21 input from Service Center Operations?

22 A. Yes.

23 Q. Was there a particular person in Service  
24 Center Operations who interfaced with the Regulatory  
25 Coordination Division on that issue?

1           A.     Sophia Cox is one of my senior advisors.  
2     She's the senior advisor for policy. So she's the  
3     principal person who engages with Policy and  
4     Strategy and other components on policy-related  
5     issues.

6           Q.     How long has she been your senior advisor?

7           A.     So she's been on -- she's been in Service  
8     Center Operations since I've been there, so going  
9     back to 2010.

10                     Her role has changed, but she's been the  
11     senior -- she's been the senior advisor for policy,  
12     probably for a good three or four years maybe.

13           Q.     Other than this regulation, has she been  
14     involved in any other TPS policy issues?

15           A.     Not that I can think of.

16                     MS. DEGEN: Let me grab an exhibit  
17     real quick.

18                     (Whereupon, Exhibit 13 was marked for  
19     identification.)

20           Q.     Mr. Neufeld, we've put in front of you  
21     what has been marked as Exhibit 13.

22                     Can you take a moment to take a look at  
23     that and let me know what you understand this  
24     document to be?

25           A.     This is the Federal Register Notice

1 announcing the decision for Nicaragua TPS.

2 Q. And what is the date of the notice?

3 A. May 16, 2016.

4 Q. Is this a Federal Register Notice that  
5 Service Center Operations was involved in drafting?

6 A. We would have if it predated the most  
7 recent Haiti, which I think it did.

8 So yes.

9 Q. And who within Service Center Operations  
10 was involved in drafting this?

11 A. Guillermo Roman-Riefkohl for sure.

12 I'm not 100 percent sure of Scott's  
13 involvement.

14 Q. All right. There are several sections in  
15 this notice.

16 Was Service Center Operations responsible  
17 for drafting each of these sections?

18 A. Yes. I need to qualify that though.

19 Responsible for drafting, again, it's not  
20 necessarily for the content, it's to make sure that  
21 they are drafted.

22 And so we would have -- we would have  
23 initiated some language that would have been  
24 modified by many other -- certainly Policy and  
25 Strategy, I'm sure.



1 Q. Who else besides Policy and Strategy was  
2 involved in modifying draft Federal Register Notices  
3 for TPS?

4 MR. KIRSCHNER: Objection.

5 A. Counsel.

6 MR. KIRSCHNER: No, that's fine. I  
7 was just going to object on vagueness, on timing.

8 Q. Let's focus on this particular one.

9 A. Counsel.

10 Q. Counsel?

11 A. (Witness nods head.)

12 Q. Anyone else?

13 A. Not that I know of.

14 I need to correct.

15 Q. Please.

16 A. So a Federal Register Notice, before it  
17 actually gets published, there's a whole process  
18 that a Federal Register Notice has to go through.

19 So we, until recently, were responsible  
20 for the -- for drafting it and making sure that it  
21 got produced.

22 That would go through a concurrence  
23 process within USCIS.

24 Then once it had cleared with us, then it  
25 would go up to the department. I don't know what it

1 is, but I'm sure that there's a clearance process  
2 within the department.

3 The secretary ultimately signs off on  
4 these, I believe, but then they go -- actually, I'm  
5 not sure whether the secretary signs before or  
6 after.

7 I know that that OMB gets involved in the  
8 process, and I don't know to what extent other  
9 agencies might have a cut in that.

10 Q. The concurrence process that you mentioned  
11 in USCIS, is that a concurrence process that  
12 happens -- let me actually clarify that a little bit  
13 more.

14 Prior to the change in this administration  
15 on who's drafting the Federal Register Notice, the  
16 concurrence process you just mentioned within USCIS,  
17 does that process happen before the secretary has  
18 made a determination or after the secretary has made  
19 a determination?

20 A. Well, most recently I can -- I know that  
21 it's after the secretary's made a determination  
22 because that's -- Policy and Strategy hasn't even  
23 drafted the FRNs until after that decision was made.

24 I don't know for sure how it was in the  
25 past when they were done together, whether --

1 whether the concurrence process within USCIS would  
2 have happened on a draft FRN prior to a decision  
3 being made. I just don't -- I don't know.

4 Q. Okay. Do you recall whether, when  
5 recommendation memos were going through a  
6 concurrence process within USCIS, whether the draft  
7 FRN accompanied the recommendation memo?

8 MR. KIRSCHNER: Objection, assuming  
9 facts not in evidence.

10 You said when they were going through  
11 the concurrence.

12 I believe his testimony was that  
13 there were times when they went through a  
14 concurrence process, not that there was necessarily  
15 a date before and after of the concurrence process.

16 Q. When a recommendation memo went through a  
17 concurrence process, which I understand has not  
18 happened with the most recent decisions, but when a  
19 recommendation memo would go through a concurrence  
20 process within USCIS, do you recall whether a draft  
21 Federal Register Notice accompanied the  
22 recommendation memo?

23 A. I do not know. I don't remember.

24 Q. Okay. When Service Center Operations was  
25 preparing draft Federal Register Notices in

1 conjunction with the recommendation memo and then a  
2 decision was made by the secretary, what was the  
3 process for then finalizing the Federal Register  
4 Notice?

5 A. I don't know the process once it leaves  
6 USCIS.

7 Q. Okay.

8 A. So a draft, whether it's us or Policy and  
9 Strategy, whoever would draft, it would go through a  
10 concurrence process within USCIS.

11 How it gets to the secretary's office, I  
12 don't -- I don't know.

13 Q. Would it come back to USCIS after the  
14 secretary makes a decision?

15 A. I don't believe so.

16 I think that the process is that it goes  
17 from the secretary to OMB for publication in the  
18 Federal Register, but I'm not involved in that  
19 process. I'm not speaking from personal knowledge.

20 Q. Once the secretary makes a TPS  
21 determination, do you know how long the process of  
22 finalizing a Federal Register Notice takes, and if  
23 there's a difference over time, what that difference  
24 has been?

25 A. I don't know specifically.

1 I know that it -- when they were drafted  
2 concurrently that it was fairly quick because it was  
3 essentially done and just needed to then go through  
4 the rest of the process, whatever that is, to get it  
5 published.

6 Now my understanding, again, we're not  
7 responsible for it anymore, but my understanding is  
8 that Policy and Strategy doesn't even begin drafting  
9 it until after the decision has been made and is  
10 communicated. Then they put pen to paper, draft the  
11 FRN, and then it has go through its process.

12 So it takes longer. Exactly how long, I  
13 don't recall.

14 There was one of them, I don't remember  
15 which one, that -- like the Federal Register Notice  
16 didn't come out until just before the expiration of  
17 the current designation.

18 So the decision needs to be made 60 days  
19 before the expiration.

20 And a long time ago the FRN would be  
21 published around the same time, and now it can take  
22 longer for the FRN to get published.

23 And I know that -- I can't remember which  
24 one it was, I know that we were waiting because we  
25 were waiting to begin accepting the applications.

1 That didn't happen until just shortly before the  
2 actual expiration.

3 Q. Okay. So -- and by "the actual  
4 expiration," you mean the expiration of TPS  
5 designation, not the expiration of that 60-day  
6 pre-expiration period.

7 Did that make any sense?

8 A. I think, but it's the same time.

9 So 60 days before the expiration of the  
10 currently designated period, the decision needs to  
11 be made.

12 And again, I can't remember which one it  
13 was, but I know that one of them, the decision was  
14 made at the proper time, like on the 60th day before  
15 the expiration, around there, and then the FRN  
16 didn't actually get published until shortly before  
17 the actual expiration.

18 So, you know, well into the 60 days.

19 Q. Okay. So for one of the countries, you  
20 don't recall which one, but one of the recent  
21 decisions, the decision was made on time, but the  
22 Federal Register Notice took somewhere close to  
23 60 days to actually get published?

24 A. That's my recollection, yes.

25 Q. Okay. I see reference to a G1056 process.

1 Do you know what that is?

2 A. That's the concurrence process -- that's  
3 the form number for the cover sheet that used to go  
4 with the concurrences.

5 I don't think there's an actual cover  
6 sheet anymore.

7 If it is, it's a digital cover sheet.

8 Q. And that's the concurrence process within  
9 USCIS?

10 A. Yes.

11 Q. When you say that the decision on a TPS  
12 extension or termination has to be made 60 days  
13 ahead of the actual expiration date, what exactly  
14 constitutes the decision?

15 A. What do you mean?

16 Q. The decision that's made, is that the  
17 secretary of Department of Homeland Security signing  
18 off on a particular document, or just saying, this  
19 is what my decision is, or is there some other act  
20 that constitutes the decision?

21 A. So that's interesting that you ask because  
22 now I realize I don't really know.

23 I think that it is on the recommendation  
24 memo itself that there's a place for the secretary  
25 to indicate what the decision is and sign off on

1 that, but now I couldn't say for certain.

2 Q. Okay. Is it fair to say that the decision  
3 happens sometime before the Federal Register Notice  
4 is actually published?

5 A. Yes.

6 Q. So going back to the Federal Register  
7 Notice itself, the one we have here is dated 2016  
8 when Service Center Operations was drafting the  
9 notices.

10 Are there any sections of the Federal  
11 Register Notice that Service Center Operations still  
12 drafts today?

13 A. No. You mean like recent?

14 Q. In the recent determinations?

15 A. Correct. We do not have any -- we don't  
16 draft any -- we haven't drafted any part of the FRN  
17 recently.

18 Q. Let me run through some of the sections  
19 here.

20 The first section in the notice is a  
21 summary.

22 Where did Service Center Operations obtain  
23 information for the summary in this notice?

24 A. Specifically, I don't know.

25 As I said, when I say that we had



1 responsibility, we were responsible for making sure  
2 that it all got put together.

3 The actual content of it, I don't know  
4 like who contributed what parts or made edits  
5 because they certainly go through revision.

6 The other thing to keep in mind is that  
7 some parts are fairly standard, like the language  
8 doesn't change, but the dates or the name of the  
9 country might change.

10 And so that's where -- I wanted to also  
11 clarify, when you said, you know, even on recent  
12 ones, is there anything that we have drafted?

13 It's complicated because I'm sure the  
14 language that was included even in the last ones  
15 probably was language that we might have contributed  
16 to at some point in the past for prior FRNs that was  
17 then borrowed for a more recent FRN.

18 Q. Okay. So just to take an example, I  
19 noticed, for example, there's a section in here  
20 called "E-filing" that has looked fairly similar,  
21 from my own review, across TPS notices for quite  
22 some time.

23 Is that an example of a section where the  
24 language sort of has been borrowed from one notice  
25 to the next to the next?

1 A. Yes.

2 Q. Okay. If we wanted to know who had input  
3 into particular sections in particular notices, is  
4 Mr. Roman-Riefkohl the person we should talk to  
5 about that?

6 A. He would have information.

7 I don't know that he would necessarily  
8 know all of it.

9 Again, our role is to make sure that it  
10 was done, and some of it we drafted ourselves, other  
11 people would have input.

12 It's sort of a collaborative process and  
13 iterative process.

14 So he would have some information, but he  
15 wouldn't necessarily know all of it.

16 Q. Okay. But he was managing the process?

17 A. Yes, until recently, until last year.

18 Q. The notices, the Federal Register Notices  
19 you noted included -- I believe you describe it as  
20 the basis of the secretary's decision.

21 How is the basis for the secretary's  
22 decision drafted -- and we can talk about the  
23 prior -- when Service Center Operations was  
24 responsible for making sure these were drafted  
25 versus now?

1 MR. KIRSCHNER: Objection, assuming  
2 facts not in evidence.

3 I'm not sure you used the exact  
4 phrase about the basis that you described. I just  
5 want to make sure that he says it in his own words.

6 Q. Do you understand what I mean by "the  
7 basis for the secretary's decision"?

8 A. So there's a section called -- entitled  
9 "Why is the Secretary in this Instance Extending the  
10 TPS Designation for Nicaragua through January 5th?"

11 So that's, in particular for this one,  
12 that section exists in every FRN as far as I know.

13 And what was the question -- that's what  
14 your question's regarding?

15 Q. Sure. That's what I'm talking about.

16 You had mentioned the basis and the why  
17 section of the notice. So yes, that's the section  
18 of the notice that I'm talking about.

19 How was that section prepared when Service  
20 Center Operations was preparing the -- or  
21 responsible for making sure the Federal Register  
22 Notices were prepared?

23 A. So what I was informed is that it -- in  
24 years past, the initial draft of this -- again, it's  
25 iterative in what it evolved -- the initial draft

1 would have -- my folks would have pulled language  
2 that they thought was relevant from the -- or would  
3 be relevant when the decision was made, pulled that  
4 information from the country conditions report that  
5 RAIIO produced.

6 But again, that would be like a rough,  
7 initial draft that would then have been revised,  
8 probably many times before the final version was  
9 published.

10 Q. And who would be involved in those  
11 revisions?

12 A. Well, again, internally it would go -- so  
13 Policy and Strategy would probably have -- would  
14 provide the most significant contribution there.

15 But anybody in the whole vetting process  
16 all the way up to OMB could make edits or comments  
17 that would have to be considered.

18 Q. Who is the final adjudicator of the  
19 comments that would come in?

20 A. That's a good question.

21 So ultimately OMB approves what gets  
22 published in the Federal Register Notice.

23 I think it's a safer characterization that  
24 the concurrence process results in concurrence all  
25 the way, you know, from everybody.

1           What I can say with certainty is that it  
2    would not be a Service Center Operations call.

3           MR. KIRSCHNER: Alycia, just in terms  
4    of this line of questioning, I wanted to take a  
5    break. I just wanted to touch base with you.

6           Q. Let me just clarify one thing before I  
7    forget I need to clarify it, and then we can -- it  
8    will be a good time for a pause.

9           Where Service Center Operations has not  
10   been responsible for making sure the Federal  
11   Register Notice is prepared, did the Federal  
12   Register Notice go through a USCIS concurrence  
13   process?

14          A. I believe so, yes.

15          Q. And did you personally provide any  
16   comments on any of those Federal Register Notices?

17          A. Not that I recall.

18                I'm certain my staff would have, and they  
19   do that under my authority.

20                But I don't know necessarily -- I don't  
21   remember having any direct input.

22          Q. Okay. Is the concurrence process ever  
23   referred to as a clearance process?

24          A. Yes.

25          Q. Is there -- besides the concurrence

1 process, is there another clearance process with  
2 respect to Federal Register Notices that you're  
3 aware of?

4 A. Outside of USCIS, I know that there is.  
5 I don't know what -- what constitutes it.

6 Q. Okay. Is there another clearance process  
7 within USCIS besides the concurrence process?

8 A. No.

9 MS. DEGEN: Okay. Why don't we take  
10 a break.

11 VIDEOGRAPHER: Going off the record,  
12 the time is 2:12 p.m.

13 (Whereupon, a recess was taken.)

14 VIDEOGRAPHER: Back on the record.

15 The time is 2:27 p.m.

16 THE WITNESS: Before we start, at the  
17 break it occurred to me, when you were asking  
18 questions about the membership or representation on  
19 the TPS working group and I mentioned field  
20 operations having a representative, it occurred to  
21 me that that might not be accurate because we also  
22 have a DACA working group, and I know that they are  
23 on that one, and I think I might have been mixing up  
24 the two.

25 So I'm not -- I'm not saying they're

1 definitely not, but I want to make sure that I'm not  
2 clear on that.

3 BY MS. DEGEN:

4 Q. Okay. Thank you for clarifying.

5 So Mr. Neufeld, before the break, we had  
6 gone through the process of getting a recommendation  
7 memo prepared for USCIS to go to the director, which  
8 would then go to the secretary. The secretary makes  
9 a decision, a Federal Register Notice is finalized.

10 Are there any steps in that process  
11 through publication of the Federal Register Notice  
12 that we've missed?

13 A. Not that I can think of.

14 Q. And we also talked about a number of  
15 differences between the process that has been  
16 experienced with the most recent TPS determinations  
17 under this administration and previous TPS  
18 determinations.

19 Are there any other process changes that  
20 we may have missed?

21 MR. KIRSCHNER: Objection, assuming  
22 facts not in evidence.

23 You used the phrase "a number of  
24 differences." I just -- that's your  
25 characterization, not Mr. Neufeld's

1 characterization.

2 Q. Are there any other differences in the  
3 process for the recent determinations under this  
4 administration and previous determinations?

5 A. So I mentioned that we don't do the  
6 Federal Register Notices any longer.

7 I wouldn't categorize that as an  
8 administration change. It happened while this  
9 administration was in -- is in office, but it wasn't  
10 directed that way.

11 The other change with respect to the FRN  
12 drafting, and I don't remember whether I've said  
13 this or not, but that the section that discusses  
14 the -- that explains the why of the decision, I  
15 think it was with Sudan we stopped even -- we  
16 stopped drafting that piece of it.

17 If I mentioned that before, sorry for  
18 repeating, but I wanted to make sure that was  
19 understood.

20 So we went from never have we been the  
21 ones who decided what the content was, but we took a  
22 stab at drafting language that others would then  
23 modify.

24 With the most recent Sudan determination,  
25 we left that section blank. We drafted the rest of



1 it but left the "why" section blank. Policy and  
2 Strategy took that role.

3 Then with Haiti we didn't even draft an  
4 FRN. And since then we haven't drafted the FRNs.

5 Q. Okay. Thank you for clarifying.

6 Are there any other process differences?

7 A. Not that I can think of off the top of my  
8 head.

9 Q. Do you know how the decision came about  
10 that Service Center Operations left the "why" blank  
11 for the Sudan decision?

12 A. My understanding is it was essentially the  
13 working group's consensus or acknowledgment that  
14 that is difficult to draft when you don't even have  
15 a sense of what the decision's going to be. And so  
16 it was left blank for the Policy and Strategy folks  
17 to draft when they had an idea of what it would be.

18 I will also say that even prior to any of  
19 this, so, you know, in the middle of the last  
20 administration, I can remember my team saying that,  
21 you know, it didn't make sense for Service Center  
22 Operations to have the pen for drafting the Federal  
23 Register Notice, that these kinds of things  
24 typically are under the purview of Policy and  
25 Strategy, drafting regulatory language, you know,

1 drafting policy memos, those kinds of things  
2 typically fall to them.

3 I think that at some point it became --  
4 you know, I don't even know how much further back in  
5 time you go with the Federal Register Notices and us  
6 drafting them for TPS, but the -- what can make  
7 sense is that there's a huge operational section  
8 that needs to be included, and so that legitimately  
9 makes sense for us to have the pen on with our  
10 operational folks.

11 But there's always been this other piece  
12 of it that doesn't -- didn't -- isn't in our, you  
13 know, wheelhouse, if you will.

14 And so this transition was just sort of  
15 the evolution of the thought process on that of the  
16 working group members, and the evolution of the  
17 certainty with which we could predict what the  
18 decisions were going to be.

19 Q. Do you know who from Office of Policy and  
20 Strategy now drafts the "why" section of the Federal  
21 Register Notices?

22 A. I don't.

23 MS. DEGEN: Okay. Let's put in front  
24 of you what's been marked as Exhibit 14.

25 (Whereupon, Exhibit 14 was marked for

1 identification.)

2 Q. And for reference, there's a Bates number  
3 at the bottom, DHS 001659000087.

4 And this is an e-mail chain with a couple  
5 of e-mails, one -- the top one dated April 20, 2017,  
6 the next one dated March 28, 2017, and the bottom  
7 one dated March 22, 2017.

8 The version that we have has a number of  
9 sections that have been redacted.

10 Just a general question here: Do you  
11 recall being someone on this e-mail chain?

12 A. I do not.

13 Q. Down in the bottom e-mail, the one that is  
14 dated March 22, 2017, the from line says "Prelogar,  
15 Brandon."

16 Do you see that?

17 A. Yes.

18 Q. And Brandon Prelogar is in the Office of  
19 Policy and Strategy. Right?

20 A. Yes.

21 Q. And then the "CC" line under that is a  
22 Hamilton, Gene.

23 A. Um-hum.

24 Q. Do you see that?

25 A. Yes.

1 Q. In March of 2017, do you know what  
2 Mr. Hamilton's role was?

3 A. Specifically, no. I know he was assigned  
4 to Policy and Strategy. I think it's the same  
5 position he holds now.

6 Q. Is that a position within the Department  
7 of Homeland Security or USCIS?

8 A. USCIS.

9 MR. KIRSCHNER: Sorry, I have a  
10 clarification for Mr. Neufeld, like if he's talking  
11 about Brandon Prelogar or he's talking about Gene  
12 Hamilton.

13 A. Brandon Prelogar.

14 Q. So Brandon Prelogar is in USCIS, and Gene  
15 Hamilton is within USCIS or Department of Homeland  
16 Security?

17 A. With DHS.

18 Q. Okay.

19 A. DHS.

20 MR. KIRSCHNER: Sorry to interject,  
21 but.

22 MS. DEGEN: Thank you for clarifying.

23 Q. In the first paragraph of Mr. Prelogar's  
24 e-mail -- why don't I give you a second to read his  
25 e-mail there.

1 A. Yes.

2 Q. In the first line, there is a reference  
3 to: USCIS met with DHS/HQ front-office staff  
4 yesterday to discuss Haiti's TPS designation.

5 Do you know what is meant by "DHS/HQ  
6 front-office staff"?

7 A. Not specifically, no.

8 Q. Do you have a general understanding of  
9 what people refer to when they refer to DHS/HQ front  
10 office?

11 A. Not really.

12 I assume that it included Gene Hamilton.

13 Who else it would have included I don't  
14 know.

15 Q. And then the next sentence goes on:  
16 During that meeting, noting that the current  
17 recommendation is from former Secretary Kerry, and  
18 given the change in administration, they requested  
19 that we seek an updated Department of State  
20 recommendation under current leadership.

21 Are you aware of any other circumstances  
22 where an updated Department of State recommendation  
23 has been sought following a change of  
24 administration?

25 A. No.

1 MR. KIRSCHNER: I want to clarify  
2 that -- I wanted to object to the extent that these  
3 questions are outside the scope of the 30(b)(6)  
4 questioning, I just wanted to put that on the  
5 record, that Mr. Neufeld's here to talk about the  
6 process within USCIS, and this is getting into the  
7 process within the Department of Homeland Security.

8 MS. DEGEN: Okay. I take your  
9 objection. I think we're trying to understand where  
10 some things fit within the process, and hopefully he  
11 can help clarify that to some extent.

12 I will just also note that this  
13 e-mail involves individuals from USCIS and their  
14 process, so....

15 BY MS. DEGEN:

16 Q. Back in March of 2017, were you aware that  
17 an updated recommendation was being sought from  
18 Department of State regarding Haiti?

19 A. I think I was.

20 Q. How so?

21 A. I seem to remember somebody saying that  
22 another recommendation was being sought, but I don't  
23 recall the specifics of that conversation or whether  
24 it was even a fact that that was happening or  
25 whether it was being considered. I don't know.

1 MR. KIRSCHNER: And just to clarify  
2 for the objection that he -- Mr. Neufeld is speaking  
3 generally to the process, and to the extent, as he  
4 had mentioned at the very beginning, about specific  
5 items, that -- that itself starts getting outside  
6 the scope, that he's talking generally about the  
7 process versus some specific item of a particular  
8 decision.

9 MS. DEGEN: Okay. I understand that  
10 is why he's here on a 30(b)(6), just to talk about  
11 the process. And as I noted, we're trying to figure  
12 out how some things fit within the process.

13 I anticipate that we'll fight at some  
14 point about, you know, whether his testimony is  
15 30(b)(6) testimony or individual testimony, but  
16 we're really trying to figure out how some of these  
17 things fit in there.

18 MR. KIRSCHNER: Okay. Yeah, I just  
19 wanted, to the extent that Mr. Neufeld is  
20 testifying, I want to make it clear that when he's  
21 testifying in his personal capacity versus his  
22 30(b)(6) capacity.

23 And so the last question I think was  
24 in Mr. Neufeld's personal -- I mean, sorry, his  
25 official capacity as a member of government of the

1 USCIS, but not as a 30(b)(6) witness on that  
2 particular question.

3 MS. DEGEN: Okay. And I would  
4 suggest, Counsel, you know, if you're amenable to  
5 this, you can interpose your objections where you  
6 think there's a line issue, and we can figure out --  
7 figure that out after the deposition rather than  
8 spending a lot of time in the deposition about --

9 MR. KIRSCHNER: Certainly.

10 MS. DEGEN: Okay.

11 MR. KIRSCHNER: I'll just object as  
12 being outside the scope.

13 MS. DEGEN: Okay. Then I will  
14 understand what you mean by that.

15 BY MS. DEGEN:

16 Q. Mr. Neufeld, do you recall how you came to  
17 understand that there -- well, actually, let me back  
18 up a second.

19 Do you have any understanding as to why an  
20 updated Department of State recommendation was being  
21 sought for Haiti in March of 2017?

22 A. Beyond what's explained here, the change  
23 in administration, no.

24 Q. Just because an administration is changing  
25 doesn't necessarily mean that country conditions



1 have changed.

2 Is that fair?

3 MR. KIRSCHNER: Objection; leading.

4 Q. If an administration changes, does that  
5 necessarily mean that country conditions have  
6 changed?

7 A. No.

8 Q. Did the current administration have  
9 different priorities than the previous  
10 administration with respect to Haiti?

11 MR. KIRSCHNER: Objection; outside  
12 the scope, and calls for speculation.

13 Q. You can provide your understanding.

14 A. Not that I'm aware of.

15 Q. In March of 2017, was there already a  
16 USCIS recommendation memo with respect to Haiti?

17 A. I don't recall. I don't remember that.

18 Q. Other than a change in administration, are  
19 you aware of any other circumstances where a new  
20 recommendation has been sought from Department of  
21 State regarding a TPS decision?

22 A. No.

23 Q. How about within USCIS?

24 A. What do you mean?

25 Q. Are you aware of any circumstances within

1 USCIS, other than a change of administration, where  
2 a new recommendation memo has been sought?

3 A. No.

4 Q. In the second e-mail in that chain,  
5 there's a reference to, quote, the Haiti option  
6 paper for S1, end quote.

7 Do you know what S1 refers to?

8 A. Yes.

9 Q. What does S1 refer to?

10 A. Secretary of Homeland Security.

11 Q. And are you familiar with a Haiti option  
12 paper?

13 A. I am, but I don't know whether that is  
14 something different than the recommendation memo.

15 Q. What Haiti option paper are you thinking  
16 of?

17 A. I recall seeing a document that outlined  
18 options for the Secretary's consideration along the  
19 lines of what I described previously about the  
20 meeting that I attended.

21 And my recollection is that that was  
22 included in the recommendation memo, but I can't say  
23 for sure that that's what it was.

24 Q. And the meeting you referred to, that was  
25 the meeting you had with Gene Hamilton?

1 A. Yes.

2 Q. The Haiti option memo, do you know if that  
3 was an attachment to a recommendation memo? Do you  
4 recall?

5 A. I don't know. I don't remember.

6 Q. If we wanted to --

7 A. My recollection is of the options.  
8 I don't remember like what the document  
9 was that they were embedded in, whether it was the  
10 actual recommendation memo that had options or  
11 whether it was a separate document that just  
12 outlined in general what options are available to  
13 any secretary for any TPS designation.

14 Q. Okay. Do you recall what the options  
15 were?

16 A. Not specifically.

17 Some of them I do -- I mean, it's the --  
18 as I discussed before, it's the -- what happens if a  
19 decision isn't made, it's basically extended for six  
20 months, that you could -- the Secretary could choose  
21 to extend for 6, 12 or 18 months, could choose to  
22 terminate but allow for a period of orderly  
23 transition.

24 I don't remember the time frames for that.

25 But my recollection is they were -- it was

1 more or less a description of legally how things  
2 work with TPS related to the Secretary's decision.

3 Q. Do you know who prepared the options memo?

4 A. I don't.

5 Q. Quick question: Is Jennifer Higgins still  
6 the Department of Homeland Security deputy chief of  
7 staff?

8 A. No.

9 Q. Do you know who is?

10 A. No.

11 Q. Do you know what's Jennifer Higgins'  
12 current position?

13 A. She is the associate director for RAIIO.

14 Q. Do you know approximately when she took  
15 that position?

16 A. I think it's been about a year, maybe a  
17 little longer.

18 I should clarify. She was the deputy  
19 associate director for RAIIO. She went to the  
20 department in an acting capacity is my recollection.

21 And then when that detail ended, she came  
22 back, but in the meantime had been selected for the  
23 associate director position.

24 Q. Okay. So she was at RAIIO, then had this  
25 detail to be acting deputy chief of staff at the

1 Department of Homeland Security, and then came back  
2 to RAIO in a new capacity?

3 A. Yes.

4 Q. Okay. How long had she been at RAIO  
5 before her -- before being detailed to DHS?

6 A. Since I have known her, so probably since  
7 I've been at headquarters. At least 16 years.

8 Q. And in her previous capacity at RAIO,  
9 before her detail to DHS, was she involved in  
10 preparing country condition reports for TPS?

11 A. I don't know how much involved she was.

12 I know that as the deputy, she would have  
13 been responsible for the folks who were drafting it.

14 MS. DEGEN: Okay.

15 (Whereupon, Exhibit 8, previously  
16 marked for identification, was presented to the  
17 witness.)

18 MS. DEGEN: I'm handing out what has  
19 previously been marked as Exhibit 8.

20 Q. Mr. Neufeld, you can take just a moment to  
21 flip through this e-mail chain.

22 I know there are a lot of e-mails in there  
23 and a number of things are redacted on it, but take  
24 a look through and just see if any portions of this  
25 e-mail chain look like something that you were

1 included in.

2 (Witness reading.)

3 MR. KIRSCHNER: Before beginning this  
4 line of questioning, I just want to say that, again,  
5 outside the scope to the extent it goes beyond just  
6 the general process that USCIS uses.

7 MS. DEGEN: Okay. All right.  
8 Objection noted.

9 A. So I believe you asked, was I included --  
10 have I seen any of this before.

11 Q. Yes.

12 A. And the answer is no.

13 Q. Okay. Let's start with the earliest  
14 e-mail in the chain. It starts on -- well,  
15 there's -- if you look down in the bottom left  
16 corner of each page, there's a small number. It  
17 starts on what's numbered 16 and goes on to page 17.

18 A. Yes.

19 Q. See that?

20 Okay. It's an e-mail dated March 2, 2017,  
21 from USCIS Regs.

22 Do you know what that department or  
23 function or directorate is?

24 A. No. I'm assuming it's the RCD.

25 Q. RCD, is that the regulatory group that you

1 talked about within Office of Policy and Strategy?

2 A. Yes.

3 Q. And can you remind me what RCD stands for?

4 A. The R is regs.

5 Q. Regs.

6 A. I think the D is division, but I don't  
7 remember what the C stands for. It might be  
8 coordination.

9 Q. Okay. Going down into the e-mail, it  
10 looks like the 2 is USCIS Exec Sec.

11 Do you read that to refer to the Executive  
12 Secretariat for USCIS?

13 A. Yes.

14 Q. Yes. And then it says: Good day, Exso,  
15 E-X-S-O. Is Exso a reference to the Executive  
16 Secretariat?

17 A. Yes.

18 Q. The next line down, it says: For FO  
19 approval.

20 Do you have an understanding of what FO  
21 refers to here?

22 A. Front office.

23 Q. And front office of what agency?

24 A. USCIS.

25 Q. Okay. So front office of USCIS.

1                   And it goes on to say: Please find  
2   attached the Federal Register Notice, FRN, extension  
3   of the designation of Haiti for temporary protected  
4   status, and the USCIS recommendation memorandum for  
5   Haiti temporary protected status TPS.

6 Do you see that?

7                    A.     Yes.

8 Q. So in March 2017, the Haiti designation  
9 that was under consideration -- am I correct that  
10 that would be the first Haiti designation that the  
11 current administration addressed?

12                    A.     Yes.

13 Q. And that is the -- that Haiti designation  
14 is the last designation for which Service Center  
15 Operations was responsible for preparing all  
16 sections of the Federal Register Notice?

17           A.    No, that should have been the first one  
18   that we didn't draft.

19 Q. Oh, that you did not draft.

20            A.    Correct.

21 Q. Okay. That's why I'm a little bit  
22 confused because it looks like they are forwarding  
23 both a Federal Register Notice and a USCIS  
24 recommendation memorandum.

25                    A.     Yes.



1 Q. So both documents were drafted at the time  
2 this -- of this e-mail.

3 A. And my understanding -- actually, I have  
4 to -- so I was briefed on this by my -- the two  
5 individuals, and my understanding was that the Haiti  
6 determination was the first one that we didn't draft  
7 the FRN.

8 Now it occurs to me that I don't know with  
9 clarity whether it was the first time Haiti was  
10 being considered or the second time, which would  
11 have been six months later.

12 Q. Okay. I think I had taken from your  
13 earlier testimony that Service Center Operations did  
14 draft for the first Haiti decision where it was  
15 extended for six months, but did not draft the FRN  
16 for the next decision where Haiti was terminated.

17 Does that sound right or maybe not sure?

18 A. I'm not sure.

19 Q. Okay. Go ahead.

20 A. I'm not sure, but on thinking about it, we  
21 most likely did draft this one, and it was the  
22 second one that we didn't draft the FRN -- the one  
23 to terminate.

24 Q. Okay.

25 MR. KIRSCHNER: Can I just ask kind

1 of a clarification question because --

2 MS. DEGEN: Yes.

3 MR. KIRSCHNER: Just so that we have  
4 a clean record.

5 My understanding, Mr. Neufeld, is  
6 that the Sudan one you were still involved, you had  
7 previously testified to.

8 THE WITNESS: Yes.

9 MR. KIRSCHNER: And this was prior to  
10 the Sudan one.

11 A. Okay. That helps. So yes, we would have  
12 been involved in this one.

13 If Sudan preceded this, then we would not  
14 have drafted the why, the explanation for the  
15 decision.

16 MS. DEGEN: Okay. I think we all  
17 agree Sudan postdated this one.

18 THE WITNESS: Postdated, that's  
19 right. So then we would have drafted the whole  
20 thing with revisions.

21 MR. KIRSCHNER: I think it's easier  
22 to have clarity for everybody as opposed to you  
23 writing a letter later saying, which one are you  
24 talking about?

25 MS. DEGEN: I appreciate it.

1 BY MS. DEGEN:

2 Q. Okay. So continuing on in that e-mail  
3 under the summary, it states: The USCIS  
4 recommendation memo discusses relevant country  
5 conditions in Haiti and explains USCIS's  
6 recommendation that the Secretary extend the TPS  
7 designation of Haiti. Following a decision by the  
8 Secretary, the FRN would alert the public that the  
9 designation for TPS of Haiti is being extended  
10 effective July 23, 2017, through January 22, 2019.

11 Do you see that?

12 A. I do.

13 Q. Okay. So at the time of this March 2,  
14 2017 e-mail, was there a recommendation that Haiti  
15 TPS be extended for a period of 18 months?

16 A. So I don't remember that one way or the  
17 other, but it would appear from this that yes,  
18 that's what the recommendation was.

19 Q. Turning to the next page, the one that has  
20 a No. 17 in the bottom right corner --

21 A. Yes.

22 Q. -- there's a reference to -- under  
23 "contacts," there's a reference to OP and SRCD.

24 Is that --

25 A. I'm sorry, I'm not following.

1 Q. Oh, I'm sorry. If you look about a third  
2 of the way down the page under "contacts" --

3 A. Yes.

4 Q. -- there's some things that are blacked  
5 out, but then there's a reference to OP and SRCD.

6 What do you understand that to be a  
7 reference to?

8 A. OP and SRCD is Office of Policy and  
9 Strategy, Regs Coordination Division. Again, I'm  
10 not sure about the C.

11 Q. And then just below that, there is a  
12 reference to OP&S, IHAD.

13 What do you understand that to be a  
14 reference to?

15 A. I don't know what IHAD is.

16 OP&S would still be Policy and Strategy.

17 COURT REPORTER: Pardon me?

18 THE WITNESS: I don't know what IHAD  
19 stands for.

20 Q. Oh, please.

21 A. OP&S stands for Office of Policy and  
22 Strategy.

23 Q. And then continuing over, there's a  
24 reference to SCOPS.

25 What is that a reference to?

1 A. Service Center Operations.

2 Q. And that's your directorate. Right?

3 A. Yes.

4 Q. On that same page, up a little higher --  
5 I'm sorry, we're doing some alphabet soup here, but  
6 there's a reference to "clearance."

7 And next to the first bullet point,  
8 there's MGT.

9 What is that a reference to?

10 A. The management directorate.

11 Q. OIDP?

12 A. Office of Intake and Document Production.

13 Q. Is that within the management directorate?

14 A. Yes.

15 Q. OCFO?

16 A. Office of the Chief Financial Officer.

17 Q. Also within the management directorate?

18 A. Yes.

19 Q. OPQ?

20 A. Office of Performance and Quality.

21 Q. Let's see. OP&S, and I believe you said  
22 that was Office of Policy and Strategy.

23 Is that right?

24 A. Yes.

25 Q. Let's see. RAIO?

1           A.     Refugee Asylum and International  
2     Operations.

3           Q.     FDNS?

4           A.     Fraud Detection and National Security.

5           Q.     OCOMM?

6           A.     Office of Communications.

7           Q.     IRIS?

8           A.     I think I recall this better than I did  
9     before.

10                   It's Immigration Records and Identity  
11     Services.

12           Q.     The second bullet down, there's OCC?

13           A.     That's the Office Chief Counsel.

14           Q.     And then the next bullet, there's a  
15     reference to AD1?

16           A.     That's acting director.

17           Q.     The acting director of USCIS?

18           A.     Yes.

19           Q.     I think you said S1 refers to the  
20     secretary of DHS. Right?

21           A.     Yes.

22                   Welcome to the government.

23           Q.     That's why we're doing this.

24                   MR. KIRSCHNER: I was about to say  
25     the same thing.

1 Q. Moving to the page that has 14 down in the  
2 bottom right corner, I'm looking at the top e-mail  
3 on that page. It's dated March 17, 2017.

4 And in the body of the e-mail, there's a  
5 reference to: The package has been cleared to AD1  
6 by COS.

7 Who is COS?

8 A. Chief of staff.

9 Q. And is that chief of staff for the  
10 director or someone else?

11 A. For the director.

12 Q. Going to the first page in this exhibit  
13 with the 13 on the bottom, this is the e-mail dated  
14 Monday, April 3, 2017.

15 I'm not sure who it's from, but it's to  
16 USCIS Exec Sec.

17 There's a reference to: Attached is the  
18 updated TPS Haiti decision memo, which now includes  
19 options for the acting director's approval.

20 Were you aware that an updated TPS Haiti  
21 decision memo was prepared between March 2, 2017,  
22 and April 3, 2017?

23 A. I think so, yes.

24 Q. What makes you think so?

25 A. I just don't have a clear memory of the

1 process, you know, what was going on back then.

2 Q. What do you recall about the process that  
3 makes you think that you were aware of an updated  
4 Haiti decision memo being prepared?

5 A. Well, I guess I know that a Haiti decision  
6 memo was prepared.

7 What I don't -- what I'm struggling with  
8 is the updated. I don't remember if, you know,  
9 what -- I don't know what that's in reference to, if  
10 there was another prior version that had gone all  
11 the way up for signature and then came back down, or  
12 if it was, you know, an edited version from the  
13 concurrence process. I don't remember.

14 Q. Okay. So we have in this chain the e-mail  
15 we talked about a minute ago dated March 17, 2017,  
16 that noted: The package has been cleared to AD1 by  
17 COS. As of now it is pending approval.

18 And an e-mail below that also dated  
19 March 17, 2017 asks: Good afternoon, Exso. When  
20 can we anticipate AD1's approval for the TPS Haiti  
21 package?

22 Is it a fair reading of this e-mail chain  
23 from March 2, 2017, through this March 17, 2017,  
24 that there was a TPS Haiti recommendation memo  
25 pending before the director of USCIS?



1 MR. KIRSCHNER: Objection; calls for  
2 speculation.

3 Q. As someone's who's been at the agency  
4 quite a while --

5 A. Can you repeat the question?

6 Q. Sure.

7 A. I wasn't following you.

8 Q. Sure.

9 Is it a fair reading of this e-mail chain  
10 from March 2, 2017, to March 17, 2017, that there  
11 was --

12 A. Can you say those dates again? You said  
13 March --

14 Q. Sure. March 2, 2017, which is the first  
15 e-mail --

16 A. Correct.

17 Q. -- where there -- it says: For FO  
18 approval, please find attached the Federal Register  
19 Notice for Haiti and the USCIS recommendation  
20 memorandum for Haiti through March 17, 2017, where  
21 the e-mail is asking: When can we anticipate AD1's  
22 approval for the TPS Haiti package?

23 Another response e-mail says: The package  
24 has been cleared to AD1 by COS. As of now it is  
25 pending approval.

1           Is a fair read of these e-mail chains that  
2    there was a USCIS recommendation memo for Haiti that  
3    had gone up to the director, and as of March 17th,  
4    it was pending approval?

5           A.     Yes.

6 Q. And then we have this e-mail dated  
7 April 3, 2017, referencing an updated TPS Haiti  
8 decision memo which now includes options for the  
9 acting director's approval.

10 Do you know what happened in the two weeks  
11 between March 17, 2017, and April 3, 2017, where we  
12 have a reference to an updated TPS Haiti decision  
13 memo?

14 MR. KIRSCHNER: I'm going to object  
15 this as outside the scope, and also that this calls  
16 for speculation.

17 Q. Well, I'm asking if you know.

18           A.     I don't know.

19 Q. Do you know -- looking at this e-mail  
20 chain, does this refresh your recollection at all as  
21 to when you had the meeting with Gene Hamilton to  
22 discuss Haiti TPS options?

23           A.    This doesn't.

24           The prior one, Exhibit 14, it's at least  
25   possible that this reference to: USCIS met with

1 DHS/HQ front-office staff may have been the one that  
2 I attended.

3 Q. Okay.

4 A. I don't know for a fact that that's it,  
5 but it would make sense.

6 Q. That would make sense to you. This e-mail  
7 was dated March 22, 2017, and the e-mail references  
8 a meeting that happened, quote, yesterday.

9 Okay. Just to make sure I understand: Is  
10 it your understanding that your meeting with Gene  
11 Hamilton happened on March 21, 2017?

12 A. No, that's not what I'm saying. I'm  
13 saying this could possibly be the meeting.

14 Q. Okay.

15 A. I'm not aware if there were multiple USCIS  
16 meetings.

17 I know I was in one USCIS meeting.

18 Q. Okay. This could be -- this could be in  
19 reference to the meeting you had, but you're not  
20 positive?

21 A. That's correct.

22 Q. All right. Do you know how long the  
23 director of USCIS typically has taken to make a  
24 decision on a TPS recommendation memo?

25 MR. KIRSCHNER: Objection; vague.

1 The word "typically" is vague.

2 Q. In your experience, how long has the  
3 director of USCIS taken to sign off on a TPS  
4 recommendation memo?

5 A. I don't know.

6 Q. Are you at all aware for any decisions how  
7 long it has taken the director to sign off on a  
8 memo?

9 MR. KIRSCHNER: Objection; vague.

10 Reference to which director?

11 Q. I'm just trying to figure out if that's  
12 something that you have visibility into or not.

13 A. I don't have visibility.

14 It's possible that maybe at some time I  
15 knew how long it took, but I don't remember at this  
16 point how long it has taken for the director to make  
17 a decision.

18 Q. Okay. That's not something that you have  
19 visibility into in the ordinary course?

20 A. No.

21 Q. Okay. Going back to this exhibit that is  
22 in front of you that was previously marked as  
23 Exhibit 8, and going to the front page with the  
24 little No. 13 at the bottom, in the second e-mail  
25 from the top dated April 3, 2017, there's a

1 reference to the NAC.

2 What does NAC refer to?

3 A. That's the Nebraska Avenue Complex, which  
4 is typically how the DHS headquarters is referred  
5 to, the complex of buildings there is where we  
6 are --

7 Q. Okay.

8 A. -- now.

9 That is the complex that I went to for my  
10 meeting with Gene Hamilton.

11 Q. Thank you. I would not have figured that  
12 one out on my own in a long time.

13 There's a reference in this e-mail just  
14 before NAC, it says: The revised memo is heading to  
15 James for signature before heading to the NAC.

16 Do you have an understanding of who James  
17 is?

18 A. Yes.

19 Q. Who is that?

20 A. At the time he was the acting director of  
21 USCIS.

22 Q. Is that James McCament?

23 A. Yes. McCament. M-c-C-a-m-e-n-t.

24 MS. DEGEN: All right. I think we  
25 can set that one aside and go to....

1 I'll give you what's been previously  
2 marked as Exhibit 9.

3 (Whereupon, Exhibit 9, previously  
4 marked for identification, was presented to the  
5 witness.)

6 Q. This is a collection of e-mails.

7 And if I can direct you first to the very  
8 first e-mail in this exhibit, it's on a page with  
9 Bates number FOIA-4-0001. It's an e-mail from Kathy  
10 Nuebel Kovarik dated April 7, 2017.

11 Who it was sent to is redacted.

12 The subject line is TPS data.

13 If you can take a look at this e-mail and  
14 let me know if you've ever seen this before.

15 MR. KIRSCHNER: I just want to object  
16 that this is outside of the scope of the 30(b)(6).

17 A. I don't know if this specific e-mail  
18 message is one that I have seen before. I'm aware  
19 of a request like this being made in an e-mail that  
20 I saw, but I don't know if this is this one.

21 Q. Okay. And were you understanding that  
22 there was a request for information to be pulled in  
23 connection with the Haiti TPS determination that was  
24 being made in the April 2017 time frame?

25 A. I'm aware that that is the time frame that

1 the request was made.

2 I don't know for what purpose.

3 Q. Was the request for information directed  
4 in any way to Service Center Operations?

5 A. Do you mind if I look through these  
6 previous ones?

7 I know that there was a request made. I  
8 know that Service Center Operations was included as  
9 a recipient of, you know, the request.

10 I don't know who else was included or if  
11 it was directed to us or if we were copied.

12 Q. Okay. That's helpful.

13 On the front e-mail, there are five  
14 categories of information listed here.

15 If you can read through those and let me  
16 know if Service Center Operations was involved in  
17 trying to provide any of those categories of  
18 information.

19 A. I don't think that we were, which is why I  
20 was making the point of not knowing whether we  
21 were -- it was directed to us or whether we were  
22 copied.

23 Requests for data are often sent to us  
24 because we are the operations branch, you know, or  
25 component.

1 But data polls like this are supposed  
2 to -- generally done, they're supposed to be done by  
3 the Office of Performance and Quality. That's where  
4 all the -- they are responsible for producing data  
5 for the agency.

6 And my recollection is that either we were  
7 copied or it was sent to us, and then we sent it  
8 over to them, but we -- at some point it got  
9 directed to the OPQ, Office of Performance and  
10 Quality. Their responsibility to pull what data  
11 existed.

12 Q. Prior to this request in April 2017, are  
13 you aware of any other TPS determinations where  
14 information on how many TPS holders on public and  
15 private relief was requested?

16 A. No.

17 Q. The same question as to any demographic  
18 data including how many TPS are school-aged kids?

19 A. No.

20 Q. The same question as to how many have been  
21 convicted of crimes of any kind?

22 A. No.

23 Q. The same question as to any  
24 criminal/detainer stats?

25 A. No.



1 Q. The same question as to how often they  
2 traveled back and forth to the island?

3 A. No.

4 Q. And same question as to how often they  
5 traveled back and forth to their home country?

6 A. No.

7 Q. The same question as to remittances data?

8 A. No.

9 Q. Do you know how many TPS holders from  
10 Haiti have criminal records?

11 A. I do not.

12 Q. Do you know how many TPS holders from  
13 Haiti are on public relief?

14 A. I do not.

15 Q. If you can turn to the second e-mail in  
16 this exhibit, there's a Bates number FOIA-4-0048.

17 It's an e-mail from Kathy Nuebel Kovarik  
18 dated April 25, 2017, subject line TPS data.

19 In the top of that e-mail, there are three  
20 requests for information.

21 Do you see where it says 1, 2, 3?

22 A. Yes.

23 Q. The first one asks: How many current  
24 Haitian TPS folks were illegal pre-TPS designation?

25 Prior to this data request in April of

1 2017, has that data been requested for any other TPS  
2 determinations?

3 A. Not that I'm aware.

4 Q. And you see the second one says: Since  
5 designation, how many have committed crimes?

6 Same question.

7 A. Not that I'm aware.

8 Q. And the same question as to: Since  
9 designation, how many are on public assistance?

10 A. Not that I'm aware of.

11 Q. Same question as to out of work?

12 A. Not that I'm aware of.

13 Q. Looking at the data described in this  
14 e-mail, just to confirm, is there any of this data  
15 that you think would have been pulled by Service  
16 Center Operations as opposed to OPQ?

17 A. No.

18 Q. Turning to the next page in this exhibit,  
19 there's a Bates number FOIA-4-0056.

20 And looking at the top e-mail, it's  
21 another e-mail from Kathy Nuebel Kovarik dated  
22 April 28, 2017.

23 And in the body of the e-mail, the second  
24 line, it says: Number 1: Can we get OPQ and RED  
25 together?

1 What does RED refer to?

2           A.     I don't know.

3 Q. Is there any group within USCIS that  
4 you've heard referred to as RED before?

5                      A.       No.

6 Q. Is there any group within DHS that you can  
7 think of?

8                      A.                      No.

9 Q. Does OPQ work with groups in other  
10 agencies on data projects?

11                   A.     Yes.

12 Q. Okay. What agencies are you aware of OPQ  
13 working with?

14           A.    So I'm not aware -- I can't recall  
15   specific times.

16           I know that -- I mean, we get requests for  
17   data all the time and for different contexts, and  
18   sometimes that would include data that perhaps CBP  
19   might have or ICE.

20                   So I know for a fact that they have  
21   engaged with ICE.

22 Q. Okay. What is CBP?

23           A.     Customs and Border Protection.

24 Q. This e-mail also has a reference to HHS.  
25 Do you know what that would refer to?

1 A. I would imagine Health and Human Services.

2 Q. The date that's being discussed in these  
3 e-mails, do you know whether any of this information  
4 is relative to the question of whether a country  
5 designated for TPS should be renewed?

6 MR. KIRSCHNER: Objection; outside  
7 the scope, calls for speculation.

8 Q. You can answer.

9 A. So I don't recall which of the three-ways  
10 TPS can be designated.

11 There's armed conflict, environmental  
12 disaster. I think the wording I'm probably going to  
13 get wrong. And then extraordinary and temporary  
14 conditions. And I think at least one of those  
15 requires for the extension or allows for -- in the  
16 extension determination for the Secretary to  
17 determine what the impact is on the United States if  
18 they were to -- are to remain.

19 That's my understanding.

20 Q. And did you have an understanding that  
21 this data was being pulled in connection with that  
22 factor, or is that something that you are  
23 extrapolating? You don't know?

24 A. No, you asked me if there could be a  
25 reason for this, and that would be my -- the only

1 thing I could come up with that might be a reason  
2 for it, but I don't know if that's the reason this  
3 was requested.

4 Q. Okay.

5 MR. KIRSCHNER: Objection to the  
6 extent like the question was assuming that that --  
7 it was requested in relation to a TPS decision per  
8 se. Assuming facts not in evidence.

9 MS. DEGEN: You can put that one to  
10 the side.

11 MR. KIRSCHNER: Is this a good time  
12 for a break?

13 MS. DEGEN: Yes, if you folks need a  
14 break, we can take one now.

15 MR. KIRSCHNER: I mean, I don't  
16 know -- you have your outline, so....

17 MS. DEGEN: I have some more  
18 documents to go through, but if people need a break,  
19 I'm happy to take one.

20 MR. KIRSCHNER: We could take a quick  
21 break now.

22 MS. DEGEN: Okay. Sure thing.

23 VIDEOGRAPHER: Going off the record.  
24 The time is 3:29 p.m.

25 (Whereupon a recess was taken.)

1 (Whereupon, Exhibit 15 was marked for  
2 identification.)

3 VIDEOGRAPHER: Back on record.

4 The time is 3:40 p.m.

5 BY MS. DEGEN:

6 Q. All right. Mr. Neufeld, I'm putting in  
7 front of you what has previously been marked Exhibit  
8 15.

9 If you can take a second to scan through  
10 that document.

11 (Witness reading.)

12 A. Not a lot here.

13 Q. There are a number of sections that have  
14 been redacted.

15 But your name is on the "to" or "from"  
16 line for some of the e-mails.

17 Do you see that?

18 A. Yes.

19 MR. KIRSCHNER: Just for  
20 clarification, this document does not have a Bates  
21 stamp at all.

22 MS. DEGEN: No, Counsel, it doesn't.  
23 That's because we -- this was produced through FOIA  
24 and has not been produced to us in this litigation.

25 I'm assuming it's not produced yet.

1 MR. KIRSCHNER: It's just that the  
2 other FOIA documents had FOIA Bates stamps, and so I  
3 just want to make -- I mean, it does have FOIA  
4 exemptions on it, and so I just want to make sure  
5 that this is a government document.

6 I mean, I have no reason to believe  
7 it's not.

8 And it does have FOIA demarcations,  
9 so I would have presumed it would have had a FOIA  
10 Bates stamp like the other ones had.

11 (Witness reading.)

12 BY MS. DEGEN:

13 Q. Just let us know when you're finished  
14 looking through.

15 A. I think I'm as ready as I'll be.

16 Q. All right. Looking at Exhibit 15, the  
17 first page, the top two e-mails, there's an e-mail  
18 from James McCament dated May 17, 2017 to you, Tracy  
19 Renaud, and Kathy Nuebel Kovarik, subject line, Re:  
20 Draft Haiti TPS FRN for a six-month extension.

21 And the e-mail from Mr. McCament says:  
22 Don, sorry for the short notice. Can you come  
23 upstairs to meet with Tracy, Kathy, and I to discuss  
24 this at 10:30?

25 First question, who is Tracy Renaud?

1           A.    I referenced her earlier.

2                   So now she is the acting deputy for --  
3     director for the agency, but I'm not sure what her  
4     capacity was then.

5                   She might have been acting director then  
6   because James, who previously or -- was the  
7   director, was acting director.

8 I'm just not sure. I think that she was  
9 his acting deputy when he was acting director in the  
10 time frame of these e-mails.

11 MR. KIRSCHNER: I'm sorry to return  
12 to the Bates stamping, but I am just super confused  
13 because it does have numbering on it, so I don't  
14 know where this numbering of 47, 48, and 49 comes  
15 from.

16                   And the time stamps on the e-mails  
17   have -- some of the more recent e-mails have earlier  
18   time stamps than the later e-mails, and so I just  
19   want to make sure that this is a fair representation  
20   of an e-mail chain.

21 MS. DEGEN: Well, Counsel, when the  
22 government actually produces this e-mail chain to  
23 us, as we anticipate they will be doing very, very  
24 soon, we can make that comparison.

25 I'm not sure why this -- we received



1 this as part of what we understand to be a FOIA  
2 packet, but I don't know why it hasn't been produced  
3 to us because it certainly is responsive and  
4 something we would have expected to have received by  
5 now.

6 MR. KIRSCHNER: I'm just trying to  
7 understand where the numbers 47, 48, and 49 come  
8 from. I mean, just --

9 MS. DEGEN: I'm not sure, but why  
10 don't we -- we'll ask Mr. Neufeld about some of the  
11 things in here, and maybe he'll fill in some of the  
12 blanks.

13 BY MS. DEGEN:

14 Q. Mr. Neufeld, do you -- and let me just  
15 note, we were looking at the e-mails, and there was  
16 a request for you to come upstairs to meet with  
17 Tracy, Kathy, and Mr. McCament, and then you  
18 respond: Yep, I'll be there.

19 Do you recall a meeting with Mr. McCament  
20 Ms. Renaud, and Ms. Nuebel Kovarik in May of 2017 to  
21 discuss Haiti TPS FRN for a six-month extension?

22 MR. KIRSCHNER: Objection, that this  
23 is outside the scope of the 30(b)(6), as Mr. Neufeld  
24 testified earlier about, that he can speak generally  
25 as opposed to being in his individual capacity about

1 specific items of Federal -- I just want to make  
2 sure that this is clear, that the line of  
3 questioning on this e-mail is outside the scope of  
4 the 30(b)(6).

5 MS. DEGEN: Your objection is noted.

6 BY MS. DEGEN:

7 Q. Mr. Neufeld, do you recall a meeting with  
8 James McCament, Tracy Renaud, and Kathy Nuebel  
9 Kovarik in May of 2017?

10 A. I don't.

11 Q. Do you recall meeting with them regarding  
12 a Haiti TPS Federal Register Notice?

13 A. No.

14 Q. Do you recall meeting with them regarding  
15 Haiti TPS?

16 A. So these people are people that I would  
17 meet with on that subject at any time.

18 There's nothing that stands out as a  
19 particular memory.

20 Those individuals, that's the chief of  
21 Policy and Strategy, the deputy -- acting deputy and  
22 acting director of the agency, so I know that I had  
23 many conversations with them, but I don't remember  
24 this in particular or any one in particular.

25 Q. Turning to the next-to-last page in this

1 exhibit, the one with the little 49 in the bottom  
2 right-hand corner.

3 A. Um-hum, yes.

4 Q. The top e-mail on that page, dated May 17,  
5 2017, from you to James McCament, Tracy Renaud,  
6 Kathy Nuebel Kovarik, the e-mail says: Attached is  
7 our TPS Haiti processing overview and ELIS timeline.

8 What does that refer to?

9 A. I honestly don't know.

10 Q. What is an ELIS timeline?

11 A. So ELIS is a reference to our new case  
12 processing system.

13 Q. Is that the system that USCIS uses to  
14 process TPS renewal applications?

15 A. It is now.

16 But when this -- when -- when the Haiti  
17 extension was happening, around that time is when  
18 processing capability was first turned on in ELIS  
19 for TPS renewals.

20 So that's -- when you asked me what is  
21 this about, it's unclear to me -- it seems as if  
22 this is a focus on our processing capabilities in  
23 the new system, but I can't be sure.

24 Q. Okay. And ELIS is a system that Service  
25 Center Operations owns and uses?

1           A.    It's a corporate, you know -- it's an  
2   enterprise resource, but we use it for some of our  
3   case processing.

4 Q. All right. In the next e-mail down,  
5 there's -- it's, again, another e-mail from you  
6 dated May 17th.

7           There is a reference to ELIS versus C3.  
8   What is C3?

9           A.    C3 is a reference to our legacy system  
10   that was historically used for processing TPS.

11 Q. Okay.

12           A.     In reading this, that's I think the focus  
13     of all of this e-mail is about that transition from  
14     processing cases and claims through -- C3 is  
15     shorthand for Claims 3, which is also an acronym,  
16     but it's all the same system.

17           And it seems as if this is -- and I know  
18   that -- so my recollection of this time frame is  
19   that was one of the challenges, if you will, at that  
20   time in -- the operational challenges was, it was  
21   happening at the same time as turning on the  
22   processing capability in ELIS.

23           And ELIS, especially back then, was a new  
24   system, untested, you know, with a lot of concerns  
25   about how it -- what kind of issues were going to

1 arise with this new, relatively high volume compared  
2 to -- well, high volume, you know, surge of filings  
3 in a new system with all the sensitivities that you  
4 can imagine from that.

5 Q. Okay. In the bottom e-mail on that same  
6 page there's a reference to TCD.

7 What is that?

8 A. That's the Technology Coordination  
9 Division, which is a division within the Service  
10 Center Operations headquarters. They work for me.

11 Q. And in that bottom e-mail there's a  
12 reference to: An attached draft outline of what an  
13 extension of TPS Haiti for 6 months would look like  
14 operationally. Since there is some overlap with TCD  
15 and ELIS, I think the paper would benefit greatly  
16 from TCD's review.

17 What was going on here?

18 A. I can't be 100 percent sure.

19 My best, you know, consideration on this  
20 is that -- I can't even tell who the author of this  
21 is --

22 Q. I know.

23 A. -- has drafted something of an outline of  
24 how the process will work for processing TPS Haiti  
25 renewals in this new system.

1                   And this message is from whoever that is  
2   acknowledging that TCD, my Technology Coordination  
3   Division, has a role to play in ELIS development and  
4   that they're seeking that group within Service  
5   Center Operations to review the paper.

6 Q. One thing I'm just confused about.

7                   That discussion is happening in an e-mail  
8 chain with the subject: Draft Haiti TPS FRN for a  
9 six-month extension.

10                   How would the draft FRN and these  
11   technology issues relate to one another?

12           A.     Off the top of my head, I don't see a  
13     connection, other than if there was some piece of  
14     the operational instructions in the FRN that would  
15     need to be modified to reflect whatever the new  
16     process -- whatever -- the new process in ELIS may  
17     have meant that something different needed to happen  
18     operationally that needed to be included in the FRN  
19     but I don't know.

20           It's also not unheard of that old messages  
21   with a bad subject line get pulled and reused or,  
22   you know -- used as a forwarding vehicle for  
23   something totally unrelated.

24 Q. The chain just evolves?

25                   A.     Yes.

1 Q. Okay. Looking at this Exhibit 15 and  
2 Exhibit 14 we have looked at, does that refresh your  
3 recollection as to whether there was a  
4 recommendation for Haiti TPS being extended for 18  
5 months that then later changed to a 6-month  
6 recommendation?

7 A. I don't recall whether there was two  
8 different recommendations, one for 18 versus one for  
9 6.

10 It appears to me -- I don't have a  
11 personal recollection of this, but it appears to me  
12 that the recommendation -- original recommendation  
13 from -- at least that was drafted for James McCament  
14 was for an 18-month extension.

15 I can't tell from this whether the FRN,  
16 which would ultimately follow a decision, was  
17 needing to be adapted to a change that the  
18 secretary -- a decision that the secretary made, to  
19 make it 6 months.

20 Q. Okay.

21 A. Versus there being some package that  
22 included an FRN and a recommendation for 6 months.

23 MS. DEGEN: Okay. You can set that  
24 one aside. Let's mark the next one.

25 (Whereupon, Exhibit 16 was marked for

1 identification.)

2 Q. Mr. Neufeld, we have before you marked as  
3 Exhibit 16 is another -- it looks like two e-mails.

4 The first one from Kathy Nuebel Kovarik  
5 dated May 18, 2017. The text of that e-mail has  
6 been redacted.

7 The second one down at the bottom of the  
8 first page is a May 17, 2017 e-mail from James  
9 McCament to someone who's been blacked out, Kathy  
10 Nuebel Kovarik, and someone else who's been blacked  
11 out, subject, Haiti TPS updated background  
12 information.

13 If you can take just a quick look through  
14 this e-mail, and let me know if this is an e-mail  
15 that you recognize.

16 (Witness reading.)

17 MR. KIRSCHNER: I'm going to object  
18 that this was outside the scope of questions  
19 pertaining to this document.

20 (Witness reading.)

21 A. I've not seen these e-mails before, or  
22 this e-mail before.

23 Q. Okay. If I can, on the first page, refer  
24 you down towards the bottom, you see there is a  
25 No. 1. It says: TPS for Haiti designation



1 memorandum addendum. The attached memo is being --

2 A. I don't see that.

3 Q. Oh, on the first page.

4 A. I'm sorry.

5 Q. Sorry. Down at the bottom.

6 A. Yes.

7 Q. Okay. It says: TPS for Haiti designation  
8 memorandum addendum. The attached memo is being  
9 provided to supplement my earlier TPS Haiti  
10 recommendation memo. In that memo, as you  
11 requested, the following points are addressed....

12 And it goes on from there.

13 Have you ever seen a TPS for Haiti  
14 designation memorandum addendum?

15 A. No.

16 Q. Do you recall any discussions about such a  
17 memorandum addendum?

18 A. No.

19 Q. Are you aware of any other TPS  
20 determinations that included a memorandum addendum?

21 A. No.

22 Q. If you continue to the second page of the  
23 exhibit, there's an Item No. 2: Federal Register  
24 Notice, FRN. Attached is the draft FRN announcing  
25 the extension. This language is an update to the

1 draft FRN which was transmitted to DHS last week.

2 Are you aware of an updated draft FRN  
3 being prepared in or around May 17, 2017?

4 A. I don't have any current recollection of  
5 that, no.

6 Q. Okay. The next item, it says: Three  
7 extension process mechanics. Attached is a memo  
8 explaining the mechanical process for a 6-month  
9 extension of the current designation. This analysis  
10 compares the process and impact of an extension  
11 versus the proposed termination.

12 And then it goes on: We have also  
13 included in a separate memo information regarding  
14 how the USCIS ELIS system will process the cases.

15 Starting with the memo explaining the  
16 mechanical process for a 6-month extension, is that  
17 a memo that came out of your staff?

18 A. I don't remember it.

19 It seems like it would make sense that it  
20 would, but I don't recall.

21 Q. Okay. If Service Center Operations were  
22 to prepare such a memo, who would you expect to be  
23 involved?

24 A. The two individuals that keep coming back  
25 Guillermo and Scott.



1 A. Yes.

2 Q. Okay. How did ELIS perform?

3 A. Fine.

4 Q. Congratulations.

5 A. Thank you.

6 Q. On the last page of this e-mail chain --  
7 I'm sorry, the last page of this exhibit, there's a  
8 reference to Option 3 termination.

9 The last sentence in that paragraph says:  
10 This termination would create little additional work  
11 for the agency, allowing more time to share data  
12 during the 6 months with the Haitians.

13 What data is shared with the home country  
14 in connection with a TPS termination?

15 MR. KIRSCHNER: Objection; calls for  
16 speculation.

17 A. What I recall around the time, I don't  
18 know if it's in relation to this particular message  
19 or e-mail, is the desire to be able to share with  
20 the Haitian Embassy information that will be helpful  
21 to them in facilitating the safe return of their  
22 nationals.

23 I don't recall there being, like,  
24 specifics or a plan for specific information to  
25 share, but that was the idea that if they were going

1 to need to provide their nationals with passports or  
2 something along those lines, that it would be useful  
3 to pass along information to them to help them do  
4 that for their planning.

5 Q. Is that information that would come from  
6 Service Center Operations or some other group within  
7 USCIS?

8 A. Well, like I said, I don't recall there  
9 being a specific plan for data to share. It was the  
10 idea that there should be data that would be shared.

11 And so I don't recall any specific  
12 requests coming to Service Center Operations to  
13 produce data to be shared with the Haitian  
14 government.

15 Q. Since TPS for Haiti has been terminated,  
16 has there been data shared with the Haitian  
17 government?

18 A. Not that I'm aware of, but I might not be  
19 aware of it.

20 Q. Are you aware of any data being shared for  
21 any of the other countries that are in the suit,  
22 El Salvador, Nicaragua, Sudan?

23 A. No. I should caveat that, though, that I  
24 know historically we have shared information with  
25 countries about the number of people that have

1 registered or reregistered. They know that but --  
2 we've shared that information with them.

3 But more specific data than that, I'm not  
4 aware of anything being shared.

5 Q. Thank you for clarifying.

6 All right. So I will represent to you  
7 that Secretary Kelly's decision to extend Haiti TPS  
8 was announced on May 22, 2017, and we have this  
9 e-mail chain dated May 17, 2017.

10 In your experience, is it typical to have  
11 this much uncertainty about where a TPS  
12 determination is going five days before the decision  
13 is announced?

14 MR. KIRSCHNER: Objection; asked and  
15 answered. He's previously testified about these  
16 matters.

17 Q. I think you can answer. I'm asking with  
18 respect to this particular decision.

19 A. Can you repeat the question again.

20 Q. Sure. Sure.

21 With this e-mail chain in Exhibit 16, this  
22 is five days before Secretary Kelly's decision on  
23 Haiti TPS was announced.

24 In your experience, is it typical for  
25 there to be this much uncertainty about where a TPS

1 decision is heading at this stage of the process?

2 A. Prior to this, this would have been  
3 atypical.

4 Q. Okay.

5 A. Since this, it seems pretty typical.

6 MS. DEGEN: I'm going to give you  
7 what has previously been marked as Exhibit 7.

8 (Whereupon, Exhibit 7, previously  
9 marked for identification, was presented to the  
10 witness.)

11 Q. Take a minute to the read through this  
12 one.

13 (Witness reading.)

14 Q. So this exhibit, previously marked as  
15 Exhibit 7, it has just for reference Bates number  
16 DHSRFPD 00001250, and it is a chain of e-mails  
17 starting August 29, 2017, the most recent one ending  
18 August 30, 2017. A couple of quick questions.

19 Oh, sorry. The Re line on all of these  
20 e-mails is: Sudan TPS.

21 And there is -- on the first page of this  
22 exhibit, there is a reference in the second e-mail  
23 down to: New memo signed; FRNS completed.

24 Where it says "FRNS," is that -- would you  
25 understand that to be a reference to Federal

1 Register Notices?

2 A. I assume so.

3 Q. Okay.

4 A. I'm not familiar with any of this e-mail  
5 traffic.

6 Q. Okay. But you've seen Federal Register  
7 Notices referred to as FRNs?

8 A. Yes, usually with a lower case N.

9 Q. Okay.

10 A. I mean, not N-S.

11 Q. Oh, N-S. So in the next e-mail down on  
12 that first page, there's FRN with a lower case S?

13 A. Yes, that's how I typically have seen it.

14 Q. Okay. I'll just represent later in this  
15 e-mail chain there's a reference to sending an  
16 updated memo.

17 Are you aware of there being -- oh, I'm  
18 sorry, actually I'll direct you to -- it's on the  
19 second page, there's an e-mail from Christina  
20 McDonald dated August 29, 2017, 10:31 p.m. It says:  
21 Kathy, will you guys send an updated memo on  
22 Wednesday a.m.? We can then send it to exec and ask  
23 them to swap out the doc.

24 Are you aware of a Sudan TPS  
25 recommendation memo being swapped out at some point?



1 MR. KIRSCHNER: Objection; outside  
2 the scope of the 30(b)(6).

3 A. I'm not aware.

4 Q. The first e-mail in the process -- in this  
5 exhibit, dated August 29, 2017, is from Gene  
6 Hamilton.

7 At this point in the process, August 2017,  
8 discussing Sudan TPS, what was Gene Hamilton's role  
9 in the TPS process?

10 A. I honestly don't know. My understanding  
11 is, he was in an advisory capacity with the front  
12 office of the secretary. I don't remember what his  
13 title was, or what role he was in.

14 Oh, it says right there, senior counsel to  
15 the secretary, so essentially what I just said.

16 Q. Is there a difference between senior  
17 counselor and senior advisor?

18 A. Not that I know of.

19 Q. Okay. There are a couple of other people  
20 referenced on this e-mail chain.

21 Are you familiar with Craig Symons?

22 A. Yes.

23 Q. And what is his role?

24 A. He is our chief counsel.

25 Q. For USCIS?

1 A. Yes.

2 Q. How about Joseph Maher?

3 A. I don't know who that is.

4 Q. Nadara Baruch?

5 A. I don't know.

6 Q. Dimple Shah?

7 A. Yes. She is now with the department, and  
8 I don't remember -- I think she's -- I don't  
9 remember. I think -- she's in Policy, I think, but  
10 I'm not sure.

11 Q. And the Department of Homeland Security?

12 A. Yes.

13 Q. Do you know Robert Law?

14 A. Yes.

15 Q. What is his role?

16 A. He works in the USCIS Office of Policy and  
17 Strategy. I'm not 100 percent sure of his title. I  
18 think it's something along the lines senior advisor  
19 or senior counsel.

20 Q. Do you know what his role is with respect  
21 to TPS?

22 A. No, other than being an advisor to Kathy  
23 Nuebel Kovarik on TPS matters.

24 MS. DEGEN: Can you mark this.

25 (Whereupon, Exhibit 17 was marked for

1 identification.)

2 Q. Okay. You have before you what has been  
3 marked as Exhibit 17, Bates number ARSUDAN 00000013  
4 through -19.

5 It's a document that's titled at the top  
6 Memorandum for the acting secretary.

7 MR. KIRSCHNER: I just want to make  
8 it clear, on the top it says, "Attorney-client  
9 privileged communication," above where it says  
10 "Memorandum for the acting secretary."

11 Q. The subject line is: Sudan's designation  
12 for temporary protected status.

13 The memo is from James B. Maher, Acting  
14 General Counsel, and Christina E. McDonald,  
15 Associate General Counsel for Regulatory Affairs.  
16 And it is through Claire Grady, performing the  
17 duties of deputy secretary.

18 Claire Grady performing the duties of  
19 deputy secretary, is that a reference to deputy  
20 secretary of DHS -- or, I'm sorry -- yes.

21 Is that a reference to Deputy Secretary of  
22 the Department of Homeland Security?

23 A. Yes.

24 Q. Okay.

25 MR. KIRSCHNER: And for

1 clarification, I think you said James B. Maher. I  
2 think you meant Joseph B. Maher.

3 MS. DEGEN: Oh, Joseph B. Maher.  
4 Thank you for clarifying.

5 Q. Now, this memo is redacted all the way  
6 through to the last page, if you can flip back  
7 there.

8 And this last page says: Sudan's  
9 designation for temporary protected status decision.  
10 You may choose to extend and redesignate, simply  
11 extend, or terminate Sudan's TPS designation.

12 And do you see down at the bottom of the  
13 page, there's a No. 3: Terminate Sudan's  
14 designation for TPS with an orderly transition  
15 period of -- circle one -- and then 12 months is  
16 circled. It says: Approved/date. There is a  
17 signature and a date of 9/1/2017.

18 Who approved this document?

19 MR. KIRSCHNER: Outside the scope of  
20 the 30(b)(6) and calls for speculation.

21 A. I don't know anything about this document.

22 Q. Okay. I will represent to you that this  
23 appears to be the same kind of TPS approval pages  
24 that we have seen with other TPS determinations  
25 where the secretary of DHS indicates what his or her

1 decision on a particular country is.

2 What I haven't seen before is having them  
3 attached to a memo coming from general counsel. And  
4 I'm wondering if you have any understanding of how  
5 this fits in the process, the overall process that  
6 you described for us.

7 A. I don't.

8 Q. Do you have any understanding as to why  
9 the Secretary's decision on Sudan was made as part  
10 of a memo from counsel as opposed to a decision  
11 memorandum from the director of USCIS?

12 MR. KIRSCHNER: Objection; assuming  
13 facts not in evidence.

14 Q. You can answer.

15 A. Can you state it again?

16 Q. Sure.

17 Do you have an understanding as to why the  
18 Secretary's decision for Sudan was made in  
19 connection with a memorandum from counsel as opposed  
20 to a decision memorandum from the director of USCIS?

21 A. Well, I don't know it was made in  
22 opposition to that.

23 I know -- I don't even know -- I don't  
24 know what this is, frankly.

25 Q. Do you recall seeing a USCIS decision

1 memorandum for Sudan in 2017?

2 A. I don't remember, no.

3 MS. DEGEN: Let's see if I can  
4 streamline some of these. Give me one second.

5 (Pause.)

6 MS. DEGEN: Can you mark this  
7 exhibit.

8 (Whereupon, Exhibit 18 was marked for  
9 identification.)

10 Q. All right. I have before you Exhibit 18,  
11 which is another series of e-mails dated -- the top  
12 one dated November 3, 2017.

13 The earliest one is dated November 1,  
14 2017.

15 Do you want to just take a minute to flip  
16 through?

17 A. (Witness nods head.)

18 (Witness reading.)

19 MR. KIRSCHNER: To kind of speed  
20 things along, I just want to say that -- I'll begin  
21 objecting. It's outside the scope.

22 One of the things that's also outside  
23 the scope is that he's been designated with regard  
24 to the Federal Register Notices, and to the extent  
25 we're asking questions outside the Federal Register

1 Notice, it's -- they're outside the scope, and I  
2 just want to kind of see if that's a way to move  
3 this along.

4 MS. DEGEN: Well, I also want to note  
5 that he's been designated to testify generally as to  
6 the USCIS process to provide a recommendation to the  
7 DHS secretary, the preparation of the Federal  
8 Register Notices, completing the Federal Register  
9 Notices, and the reasons stated in those notices.

10 So he's here on general process as  
11 well. So --

12 MR. KIRSCHNER: Correct, on general  
13 process, but not on, as he had testified at the  
14 beginning, about specific examples.

15 MS. DEGEN: All right. Your  
16 objection is noted.

17 MR. KIRSCHNER: So just to make the  
18 record clear, I object that this is outside the  
19 scope of the designation, questions concerning this  
20 document.

21 MS. DEGEN: Okay.

22 (Witness reading.)

23 BY MS. DEGEN:

24 Q. Let me just ask you very quickly,  
25 Mr. Nuebel Kovarik [sic], there are a number of

1 names that are blacked out on this e-mail chain.

2 Are you familiar with this?

3 A. I'm sorry, my name --

4 Q. Did I just say -- I am so sorry,  
5 Mr. Neufeld, not Nuebel.

6 Mr. Neufeld, do you recognize --

7 A. I didn't hear anything after you said  
8 that.

9 Q. I'm sorry. I was staring at "Nuebel"  
10 here.

11 Mr. Neufeld, do you recognize the e-mail  
12 chain in this Exhibit 18?

13 A. I do not.

14 Q. There are some references in this e-mail  
15 chain -- and we can start at the bottom, most recent  
16 e-mail chain. It's dated November 1, 2017, from  
17 Kathy Nuebel Kovarik, and the subject line is: TPS  
18 decision memo on Haiti.

19 She says: We have finalized the decision  
20 memo for D1 to send to AS1 on Haiti's TPS  
21 designation.

22 And then the second paragraph states: I  
23 don't anticipate sending this formally through the  
24 clearance process, but rather, after you provide  
25 your input and we amend, we'll share with



1 appropriate directorates for FYI before getting D1's  
2 signature.

3 I'm just trying to put this into context.

4 You had described earlier that at some  
5 point, the TPS recommendation memos stopped going  
6 through the concurrence process, which you also  
7 said -- described as the clearance process within  
8 USCIS.

9 Is this a fair reading of this e-mail,  
10 that the memo for TPS decision on Haiti was not  
11 going to go through the USCIS concurrence process?

12 MR. KIRSCHNER: Objection; calls for  
13 speculation.

14 Q. Just your, you know, as you read this,  
15 would that be your understanding?

16 A. Yes.

17 Q. Okay. Do you recall a November 2017 TPS  
18 decision memo on Haiti going through the concurrence  
19 process?

20 A. I don't recall that, no.

21 Q. On the second page of the exhibit, about  
22 three-fourths of the page down, there's a statement  
23 that says: Per Kathy's readout of today's PC, this  
24 needs to go to AS1's office today.

25 Do you have any understanding of what

1 "today's PC" is a reference to?

2 A. I don't.

3 Q. PC is not an acronym that you're familiar  
4 with?

5 A. No -- no.

6 Q. Going to the first page, there's -- if you  
7 can look again about two-thirds down the page to the  
8 e-mail from Kathy Nuebel Kovarik dated November 3,  
9 2017, timestamped 3:06:56 p.m.

10 And the e-mail says: I think we should  
11 send a clean version as an FYI to RAI0, SCOPS, FOD,  
12 and MNGMT.

13 I think you've interpreted RAI0 for us and  
14 SCOPS.

15 What is FOD?

16 A. Field Operations Directorate.

17 Q. And MNGMT, is that the management  
18 directorate?

19 A. Yes.

20 Q. Okay. And this e-mail goes on to say:  
21 But no formal clearance process.

22 Would you read that again to refer to the  
23 concurrence process within USCIS?

24 A. Yes.

25 MS. DEGEN: You can mark this,

1 please.

2 (Whereupon, Exhibit 19 was marked for  
3 identification.)

4 Q. You have before you what's been marked as  
5 Exhibit 19. And it's another e-mail chain -- the  
6 bottom one dated November 3, 2017. The top one also  
7 dated November 3, 2017.

8 And you are on these e-mails.

9 Do you see that?

10 A. Yes.

11 Q. In the bottom e-mail, it states: Today  
12 Director Cissna signed and is planning to deliver a  
13 decision/recommendation memo to Acting Secretary  
14 Duke related to Haiti's TPS designation.

15 There's some text that's blacked out and  
16 then it goes on: We expect a decision could be made  
17 on Haiti with the other Central American countries  
18 in advance of the 60 days required. Attached is a  
19 signed copy of the memo, along with relevant  
20 attachments. If you have any questions or concerns,  
21 please let me know.

22 It notes here: Attached is a signed copy  
23 of the memo, along with the relevant attachments.

24 Do you recall what was attached to the  
25 decision memo for the TPS decision on Haiti in

1 November of 2017?

2 MR. KIRSCHNER: Objection; outside of  
3 the scope for the 30(b)(6).

4 Q. This is the second Haiti decision made  
5 under this administration. Right?

6 A. Yes.

7 Q. And Service Center Operations did not  
8 draft the Federal Register Notice in connection with  
9 this determination. Right?

10 A. Correct.

11 Q. And before this e-mail where Kathy Nuebel  
12 Kovarik forwarded a signed copy of the memo, had you  
13 seen a copy or a draft of the TPS decision memo for  
14 Haiti for November 2017?

15 MR. KIRSCHNER: I'm just going to --  
16 standing objection on this document for outside the  
17 scope.

18 A. I don't recall.

19 Q. In the second e-mail, the middle e-mail in  
20 the chain, you e-mail Kathy Nuebel Kovarik and some  
21 other individuals saying: Thanks, Kathy. Do you  
22 anticipate an auto-extension of current cards beyond  
23 January 22nd? This would seem to be needed for any  
24 decision other than immediate termination.

25 Do you see that?

1 A. Yes.

2 Q. Can you tell me what you're referring to  
3 with "auto-extension of current cards"?

4 A. So the cards -- this is helping with my  
5 memory. I don't know for sure with the -- if the  
6 dates are right. But apparently the cards for Haiti  
7 TPS holders would expire January 22nd.

8 And so if the decision was anything other  
9 than -- so immediate termination, then they would  
10 lose their TPS status and wouldn't need EADs after  
11 that.

12 But for anything other than that, they --  
13 given the timing of this decision, and we're talking  
14 November 3rd with cards expiring January 22nd, if  
15 there was a decision that would have allowed for  
16 them to have employment authorization beyond  
17 January 22nd, then we needed something to cover --  
18 cover that.

19 Q. And Ms. Nuebel Kovarik responds to you: I  
20 do, although anything could happen.

21 Is it fair to read that as a reference to  
22 the uncertainty in the determinations that you  
23 referenced earlier?

24 A. Yes.

25 Q. Is that how you read it?

1 A. Yes.

2 Q. All right.

3 MR. KIRSCHNER: Just for the record,  
4 I was going to object as calling for speculation.

5 MS. DEGEN: It would have been a good  
6 objection. All right.

7 Q. In a number of e-mails, including this one  
8 where we see references -- discussions about TPS and  
9 references to, quote, the memo, is it fair to  
10 generally assume that we're talking about the  
11 decision memo?

12 A. I don't know.

13 Q. Is there any other memo that is typically  
14 prepared as part of a TPS decision process?

15 A. Not that I'm aware of within USCIS.

16 MS. DEGEN: Can you mark another one.  
17 (Whereupon, Exhibit 20 was marked for  
18 identification.)

19 Q. You have before you what's been marked as  
20 Exhibit 20. It is another chain of e-mails, and you  
21 are on some of these e-mails.

22 I'll give you a second to kind of look  
23 through.

24 (Witness reading.)

25 MR. KIRSCHNER: I apologize. I'm

1 going to do a standing objection that it appears  
2 that questions about this document will be outside  
3 the scope of the 30(b)(6).

4 I mean, if you want me to object each  
5 time --

6 MS. DEGEN: I understand you have an  
7 objection. I would say some of these will clearly  
8 not be outside the scope.

9 MR. KIRSCHNER: Okay. Well, I can do  
10 it each time if you want.

11 MS. DEGEN: We'll sort it out.

12 MR. KIRSCHNER: Okay.

13 MS. DEGEN: If we have to.

14 MR. KIRSCHNER: Okay.

15 (Witness reading.)

16 Q. Okay. Do you recognize any of these  
17 e-mails?

18 A. Yes.

19 Q. Okay. That's good because you're on them.

20 So starting with the bottom e-mail  
21 chain -- or the bottom two e-mails on the last page,  
22 there's the bottom e-mail -- well, the subject --  
23 I'm not sure who it's from. I know you are on the  
24 "to" line among other people who are blacked out.

25 The subject is: Hold media call on Haiti

1 TPS.

2 And the bottom e-mail says: Please dial  
3 in as the leader at 5:45 p.m. for a call prebrief.

4 Do you recall participating in a call  
5 prebrief regarding Haiti TPS?

6 A. So let me tell you, my memory on this is  
7 not all that clear, but having read through all of  
8 this, I think that that -- that call didn't happen.

9 Q. Okay. Let me ask you just, what is a call  
10 prebrief?

11 A. So I think it will be helpful -- the  
12 context of this is, we were -- folks were arranging  
13 for a call with the press to tell them to convey the  
14 Secretary's decision.

15 And this happened for all of these  
16 terminations, and I was the USCIS person designated  
17 to get to explain the operational piece of that.

18 There was somebody else I don't recall  
19 from the Department that explained, you know,  
20 basically announced the decision and explained the  
21 reasons for the decision.

22 This was the day that the Secretary was  
23 going to make the decision -- this is my  
24 recollection of this as well reading through this,  
25 is that the decision hadn't been made, but they were



1     teeing up the slot with the media so that they would  
2     be lined up to hear the decision shortly after it  
3     had been made.

4             And reading through this, I think that  
5     it -- yeah, there's a reference here on the second  
6     page, second from -- well, second one from the  
7     bottom from whoever that was to me and the director  
8     saying that we will not be dialing in to a call at  
9     5:45, and that we're on standby, and that it could  
10    slip until 8 p.m.

11            Q.    So let me make sure I understand that.

12                    You were expecting the Secretary to make a  
13     decision on Haiti TPS on November 20th of 2017 and  
14     were preparing for a call with the press to announce  
15     that decision.

16                    The decision had not yet been issued as of  
17     the time that the press call was scheduled, and so  
18     it was rescheduled to some other time?

19                    MR. KIRSCHNER:  Objection; assuming  
20     facts not in evidence.

21            Q.    I'm sorry, I may have misunderstood  
22     something that he said.

23                    So up until I said it was rescheduled, did  
24     I have that right?

25            A.    Yes.

1 Q. Okay.

2 A. Can I just --

3 Q. Yeah.

4 A. Rather than -- I think I'm understanding  
5 your question. I'd rather just say that on the  
6 20th, a decision was anticipated from the Secretary.

7 I think that was actually the deadline, it  
8 had to be made on the 20th, but I'm not sure of  
9 that.

10 And so the call with the media was set up  
11 late in the day, anticipating that the Secretary  
12 would make the decision before that. And then this  
13 call would have been set up to convey that decision,  
14 and I would be participating in that.

15 After that call had been scheduled -- oh,  
16 and the 5:45 is -- my recollection is it would have  
17 been a 6 o'clock call with us calling in with just  
18 the DHS people to confer before the call went live  
19 with the media at 6. That was the original plan, as  
20 I recall.

21 And then later in the day, it became clear  
22 that that decision hadn't happened yet and that the  
23 call would need to be pushed back.

24 Q. Okay. So looking to the first page of  
25 this exhibit, there's an e-mail that says: We just

1 got the cleared PAG back from DHS. Please see  
2 attached. The call is now scheduled for 6:45.

3 A. I know I just read that, but now I can't  
4 find it.

5 Q. Oh, it's on the first page of the exhibit,  
6 middle of the page.

7 A. Oh, yes. Okay.

8 Q. Okay. So does that mean that the press  
9 call happened that day?

10 A. Yes.

11 Q. Okay. And what does PAG refer to?

12 A. I don't remember what that acronym stands  
13 for. I think it's -- no, I just forgot it again.

14 Essentially it's the packet of material  
15 that's prepared for a press briefing. It includes  
16 talking points, and if asked, the answers, that sort  
17 of thing.

18 Q. Who prepares those materials?

19 A. Folks in the communications parts of both  
20 USCIS and DHS.

21 I'm not sure who particularly drafted  
22 these for this event, this call.

23 Q. But it's a packet of material that's  
24 intended to be used with the press?

25 A. Yes.

1 MR. KIRSCHNER: Objection; assuming  
2 facts not in evidence the way that question was  
3 phrased.

4 You said "intended to be shared with  
5 the press."

6 MS. DEGEN: To be used with the  
7 press.

8 MR. KIRSCHNER: I don't think  
9 Mr. Neufeld said that.

10 BY MS. DEGEN:

11 Q. How would you describe what the PAG is  
12 used for?

13 A. It's for those who would be engaging with  
14 the press. It's a resource for them to refer to in  
15 answering questions or conveying information.

16 Q. Does it include a copy of a press release?

17 A. Typically it would, yes.

18 Q. Does it include any talking points for you  
19 to use in talking with the press?

20 A. Typically it would. I don't recall the  
21 specific one.

22 Q. Well, on the last page, you ask the  
23 question: Are we huddling anywhere near or at  
24 20 Mass.?

25 What is 20 Mass.?

1 A. That's the USCIS headquarters.

2 Q. Okay. Thank you.

3 There's also, on the third page, there's a  
4 reference: Is this the call where DHS OPA tells the  
5 media what the Haiti TPS decision is?

6 What is DHS OPA?

7 A. Office of Public Affairs, I think is what  
8 that stands for.

9 Q. And in the middle of the second page, the  
10 e-mail timestamped 4:35 p.m. says: FYI folks, AS1  
11 still hasn't signed the memo. If that doesn't  
12 happen in the next hour, the timing of the call will  
13 likely slip. I've attached an e-mail chain between  
14 DHS and the NSC, etc., on this topic.

15 Who is the NSC?

16 A. I'm not sure.

17 Q. Do you recall seeing the e-mail chain that  
18 was attached?

19 A. I don't recall seeing it, no.

20 Q. Have you heard of the National Security  
21 Council being involved in TPS determinations?

22 A. Not that I recall, no.

23 Q. Are there any other NSC acronymed groups  
24 that you can think of in the government?

25 A. Yeah. So one of my service centers is the

1 Nebraska service center.

2 Q. Nebraska service center. Okay.

3 A. But I don't think it was an e-mail between  
4 DHS and the Nebraska service center.

5 And yes, I have heard of the National  
6 Security Council, but I didn't understand the  
7 connection there, so that's why I didn't suggest  
8 that is what that meant.

9 Q. Okay.

10 MR. KIRSCHNER: Counsel, I'm just  
11 kind of trying to figure out, it's around time for a  
12 break, but I don't know if you're finishing up.

13 MS. DEGEN: If everyone's okay, let  
14 me get through this last little bit, and then maybe  
15 we can take a break and I'll see what cleanup we  
16 have, if that's okay.

17 If you're doing all right. If you  
18 need a break, just --

19 MR. KIRSCHNER: By "last little bit,"  
20 you mean one more document?

21 MS. DEGEN: No, I just -- there are a  
22 few related documents on the press issue I think we  
23 can get through relatively quickly.

24 MR. KIRSCHNER: I will say to the  
25 witness that if you want a break, you know, it's up

1 to you, but....

2 THE WITNESS: I'm fine unless you  
3 want a break.

4 MR. KIRSCHNER: No, I'm fine.

5 I mean I don't mind powering through,  
6 but I also wanted to make sure everyone was fine  
7 doing it.

8 MS. DEGEN: Yeah.

9 Can you mark this, please?

10 MS. AFANEH: Alycia, after this line  
11 of questioning, you think there's just going to be  
12 some cleanup? So we're getting there and close to  
13 the end? I just need for planning purposes.

14 MS. DEGEN: Yeah, we're getting  
15 there.

16 MS. AFANEH: Okay. You think it's  
17 fair to say we'll be done by 6? It's 4:55.

18 MS. DEGEN: We can be done by 6.  
19 Do you have a flight to catch?

20 MS. AFANEH: No, no. I wish that was  
21 what I had.

22 (Whereupon, Exhibit 21 was marked for  
23 identification.)

24 BY MS. DEGEN:

25 Q. So you have before you what's been marked

1 as Exhibit 21. That's Bates number  
2 DHS RFPD 00001214.

3 And this is an e-mail dated November 6,  
4 2017, from Christyn Lansing to several different  
5 people, including you.

6 And the subject line is: Draft TPS PAG.

7 In the first line of her e-mail, she says:  
8 Hello. Attached is the draft Public Affairs  
9 Guidance for TPS.

10 Does that refresh your recollection as to  
11 what PAG stands for?

12 A. Yes.

13 Q. Public Affairs Guidance?

14 A. Yes.

15 Q. And do you typically receive drafts of the  
16 Public Affairs Guidances relating to TPS?

17 A. If I'm going to be involved with the  
18 media, which is not typical, except it has been for  
19 the last three or four.

20 Q. Which TPS determinations were you involved  
21 with the media for?

22 A. I think it -- I think it was Nicaragua,  
23 Haiti, and El Salvador.

24 It might have been Sudan, Nicaragua, and  
25 Haiti.



1           It was three of the four, and I just don't  
2   remember which.

3 Q. It sounds like you remember Nicaragua and  
4 Haiti but aren't sure whether it was Sudan or El  
5 Salvador?

6           A.     That's correct.

7 Q. But it could have been either one?

8           A.     Yeah. My recollection of it, you know,  
9     thinking about it here is that it was the first  
10    three, and then the fourth one didn't happen for  
11    some reason. But I'm not 100 percent sure of that.

12 Q. Are you familiar with the process of  
13 preparing a Public Affairs Guidance?

14           A.    Not really.

15 MR. KIRSCHNER: Before moving on from  
16 this document, Counsel, I just want to say on  
17 Exhibit 21 -- just to confirm that this is  
18 Exhibit 21 that you just asked about.

19 MS. DEGEN: Yes.

20 MR. KIRSCHNER: We had produced this  
21 document subject to the agreement that we'll be  
22 entering a protective order. There's clearly, you  
23 know, people's email addresses and so forth.

24                   So I just wanted to flag for the  
25    record that this document we would expect to be

1 subject to the protective order anticipated between  
2 the parties.

3 MS. DEGEN: Okay.

4 MR. KIRSCHNER: I will also say that  
5 we can talk off-line about ways to redact this  
6 document, and that does not require a protective  
7 order.

8 MS. DEGEN: Okay. Let's also talk  
9 about ways to mark documents so we know that they  
10 are intended to be confidential.

11 MR. KIRSCHNER: This was when we were  
12 in the -- the transition period of when we -- and  
13 so --

14 MS. DEGEN: Okay. We'll talk  
15 off-line about that.

16 MR. KIRSCHNER: So I just wanted to  
17 make that clear.

18 BY MS. DEGEN:

19 Q. Do you know who Briana Petyo is?

20 A. No.

21 Q. How about Michael Dougherty?

22 A. I know -- I don't know for sure who this  
23 Michael Dougherty is.

24 I think he is the person who used to be at  
25 one time our ombudsman, and then now is in -- he's

1 in the department. I don't know in what role.

2 MS. DEGEN: Let's mark this as the  
3 next one.

4 (Whereupon, Exhibit 22 was marked for  
5 identification.)

6 Q. All right. You have before you what's  
7 been marked as Exhibit 22, and the Bates number is  
8 DHS RFPD 00001190.

9 And we'll say this appears to be a  
10 transcript of a call with the press on November 6,  
11 2017, regarding the TPS designation for Nicaragua,  
12 and you are identified as a participant in that  
13 call.

14 Do you remember participating in a press  
15 call for the Nicaragua TPS designation?

16 A. Yes.

17 Q. Do you have an understanding as to why you  
18 were asked to participate in the media call?

19 A. Yes, in case there were any questions from  
20 the media on the operational procedures.

21 Q. And the other person participating in this  
22 phone call was Jonathan Hoffman.

23 Do you remember him participating in this  
24 call with you?

25 A. Yes.

1 Q. And he identifies himself as the Assistant  
2 Secretary of Public Affairs at DHS.

3 Do you have any idea what his role is?

4 A. Currently, no.

5 Q. Okay. And when he was -- at the time of  
6 this press call, did you have an understanding?

7 A. I have no reason to believe it's anything  
8 other than being the Assistant Secretary of Public  
9 Affairs.

10 Q. Do you have any idea what his duties are,  
11 scope of his responsibilities?

12 A. No, other than what would be implied with  
13 that position title and the fact that he did  
14 participate in this media engagement.

15 Q. Did he participate in the other two media  
16 calls that you mentioned?

17 A. I'm not sure it was him in all three.  
18 I'm pretty sure he was in at least another  
19 one. I just don't remember.

20 We weren't in the same room together, we  
21 were on the phone, so I don't think I've ever even  
22 met him other than on the phone.

23 Q. How were you prepared to -- rephrase that.  
24 How did you prepare to participate in this  
25 media call?

1 MR. KIRSCHNER: I thought -- I'm just  
2 going to object as outside the scope. He's not here  
3 to testify about public affairs matters but for the  
4 purposes of the 30(b)(6).

5 Q. How did you prepare to participate in this  
6 media call?

7 A. My only preparation was to review the  
8 Public Affairs Guidance shortly before going on the  
9 call.

10 Q. Did the Public Affairs Guidance that you  
11 reviewed include talking points for use with the  
12 press?

13 A. I don't remember specifically, but I think  
14 that it would have.

15 Q. Turning to page -- it's page 12 of the  
16 transcript, and the Bates number on the bottom is  
17 DHS RFPD 00001201.

18 At the top of the page, there are two  
19 questions from Neil Munro.

20 He says: First of all, what percentage of  
21 these TPS beneficiaries were in the country as  
22 illegal immigrants when the old process started; and  
23 secondly, is this process designed to give the  
24 president any leverage in continuing negotiations  
25 about DACA, Dreamers, and the border wall and chain

1 migration?

2 And you answer: To the first one, I don't  
3 believe we have that information. It was definitely  
4 not something that was examined in this process.

5 Where did you get the information to  
6 provide that response?

7 A. Let me read it here.

8 (Witness reading.)

9 A. I don't recall giving that response.

10 Q. As you sit here today, do you question  
11 whether you gave that response?

12 A. I do question now.

13 Q. Do you think someone else gave that  
14 response?

15 A. I do.

16 Q. Who do you think gave that response?

17 A. Probably Jonathan -- what's his name --  
18 Hoffman.

19 Q. So you think the transcript is wrong as to  
20 who was speaking there?

21 A. I do.

22 Q. Do you think that statement is accurate?

23 MR. KIRSCHNER: Objection; calls for  
24 speculation.

25 Q. I'm asking for his opinion.

1 A. Let me read it again.

2 (Witness reading.)

3 A. I don't have any reason to believe it's  
4 inaccurate.

5 Q. Do you have any reason to believe that it  
6 is accurate? You just don't know?

7 A. I don't know.

8 Q. If you can take a quick look through the  
9 rest of the statements that are attributed to you in  
10 this transcript here on this page 12.

11 Is there any portion of that that you  
12 think you actually delivered as opposed to  
13 Mr. Hoffman?

14 A. No.

15 Q. Okay.

16 MR. KIRSCHNER: Just for clarity's  
17 sake, I just want to make sure, because the question  
18 was first about the document versus this particular  
19 page, can we just clarify which statements you're  
20 asking about?

21 Q. I'm looking at page DHS RFPD 00001201, and  
22 there are -- there's an exchange recorded here  
23 between Neil Munro and Donald Neufeld.

24 I'm wondering if there's any portion of  
25 this exchange that's attributed to you, Mr. Neufeld,

1 that you think you actually provided as opposed to  
2 Mr. Hoffman.

3 A. There's two attributed to me on this page,  
4 and neither one of those is something that I would  
5 have said.

6 Q. And why is it not something you would have  
7 said?

8 A. It's not my place. I don't have opinions  
9 like this and it's not my place to speak to this.

10 Frankly, I don't make representations to  
11 what the administration understands or is intending  
12 to do.

13 MS. DEGEN: Can you mark this.

14 (Whereupon, Exhibit 23 was marked for  
15 identification.)

16 Q. All right. I have before you what's been  
17 marked as Exhibit 23, and it has Bates numbers  
18 DHS 001659000412 through -429.

19 And it appears to be an e-mail chain with  
20 some attachments.

21 My first question as you're flipping  
22 through is with the attachments.

23 My question is whether this is the type of  
24 Public Affairs Guidance document that you referenced  
25 earlier that you used to help prepare you for the



1 Nicaragua press call?

2 A. I can say this looks familiar. It's  
3 typical of the kinds of PAGs that are created. I  
4 don't know whether this is specifically the one that  
5 we ended up using.

6 Q. And you recall participating in a press  
7 call with respect to the Haiti termination. Right?

8 A. Yes.

9 Q. I'm sorry, on page 2 of this exhibit, the  
10 Bates number ends in -413, there's a reference to,  
11 down at the bottom of the page, 1900 hours,  
12 background call with media.

13 Is that a reference to the media call that  
14 you eventually participated in on the Haiti TPS  
15 termination?

16 A. I would think so, yes.

17 Q. You're not aware of another background  
18 call with media?

19 A. I'm not aware of anything else, no.

20 Q. On the next page of the exhibit ending in  
21 -414, there's a statement up towards the top that  
22 starts: Upon transmittal of FRN, USCIS distributes  
23 news release with technical information on  
24 reregistration process, separate timeline for  
25 subsequent process, including website updates and

1 further notifications. Will be shared as further  
2 details are available.

3 Is there a separate news release that is  
4 issued when the Federal Register Notice is  
5 published?

6 Essentially what I'm trying to understand  
7 is that this document talks about a news release  
8 going out with the announcement of the Secretary's  
9 decision, and then -- I'm trying to figure out if I  
10 should read this as there being another news release  
11 that comes out when the Federal Register Notice  
12 comes out, or if this is referring to something  
13 different.

14 A. No, there's a Federal Register Notice, and  
15 then there's usually a news -- well, for these,  
16 there has been a news release explaining that the  
17 Federal Register Notice is published and what it  
18 means.

19 Q. Okay. And there's a separate news release  
20 when the Secretary announces her decision?

21 A. Let me think about this for just a second.

22 (Pause.)

23 A. I just don't remember the sequencing of  
24 things for this.

25 I don't remember the timing of the FRN,

1 you know, publication compared with the Secretary's  
2 decision. I don't remember it.

3 Q. Okay. Were there any differences that you  
4 recall between your preparation for the Nicaragua  
5 press conference and the Haiti press conference?

6 A. No.

7 Q. You followed the same process for both?

8 A. Yes.

9 Q. And how about for the third country, which  
10 was either El Salvador or Sudan?

11 A. Let me say this. They're all sort of a  
12 blur.

13 The process for preparing is a PAG being  
14 provided and reading it and then getting on a call.

15 MS. DEGEN: Okay.

16 (Whereupon, Exhibit 24 was marked for  
17 identification.)

18 Q. All right. I have before you what's been  
19 marked as Exhibit 24. It's a series of e-mails  
20 ranging from December 8, 2017, 9:37 a.m.,  
21 December 8, 2017, 5:42:36 p.m.

22 And there are some references to --

23 A. I'm sorry, where are you directing me to?

24 Q. If you take a look at the first page, the  
25 subject line of the e-mail says: Confirmed meeting

1 with Haitian AMB Paul Altidor. And there are some  
2 references to you participating in that meeting.

3 Did you meet with the Haitian ambassador  
4 regarding TPS?

5 A. I don't recall meeting with the  
6 ambassador.

7 Q. Do you recall being asked to meet with the  
8 ambassador?

9 A. I don't recall.

10 Q. Are you aware of anybody in Service Center  
11 Operations meeting with the Haitian ambassador  
12 regarding TPS?

13 A. I just don't remember, no.

14 Q. Have you ever met with an ambassador  
15 regarding TPS in the past?

16 A. Yes.

17 Q. Which ambassadors?

18 A. Honduras and El Salvador.

19 Not in the context of these terminations,  
20 but historically, both of them have been interested  
21 in making sure that their people reregister, and so  
22 they would meet with us to just understand the  
23 timing and that sort of thing.

24 I'm not saying I didn't meet with this  
25 ambassador, I just don't remember.

1 Q. Okay. For Honduras, do you recall which  
2 ambassador you met with?

3 A. Names, no.

4 Q. All right. How long ago was that?

5 A. Probably two or three years ago.

6 Q. And was it the Ambassador for Honduras to  
7 the United States or the U.S. Ambassador to  
8 Honduras?

9 A. Honduras to the United States.

10 Q. And for El Salvador?

11 A. Same, except that it was El Salvador.

12 MR. KIRSCHNER: I was about to ask  
13 for clarification.

14 MS. DEGEN: All right. Okay. Why  
15 don't we take a break now.

16 MR. KIRSCHNER: Okay.

17 VIDEOGRAPHER: Going off the record,  
18 the time is 5:20 p.m.

19 (Whereupon, a recess was taken.)

20 (Whereupon, Exhibit 25 was marked for  
21 identification.)

22 VIDEOGRAPHER: Back on the record.

23 The time is 5:35 p.m.

24 BY MS. DEGEN:

25 Q. Mr. Neufeld, you have in front of you

1 what's been marked as Exhibit 25, Bates-numbered DHS  
2 RFPD 0000132 through -134, which is a series of  
3 e-mails dated -- the top e-mail is dated  
4 September 6, 2017, and the subject line is: Re:  
5 Urgent Sudan TPS revised legal memo.

6 I will represent to you that we understand  
7 the decision to terminate TPS for Sudan was made on  
8 September 1, 2017.

9 I'm wondering if you are aware of anything  
10 in the process that would involve a revised legal  
11 memo on or around the time a TPS determination is  
12 made?

13 A. I'm not aware of anything related to that.

14 Q. In the "to" line for the very top e-mail  
15 on page 1 of the exhibit, there's a reference to  
16 ESEC internal liaison.

17 Is that a reference to the Executive  
18 Secretariat?

19 A. I don't know for sure. I would think so.

20 That's -- I don't think it's a USCIS. I  
21 don't think it's for USCIS's exec sec, but that is  
22 how we refer to our exec sec is ESEC.

23 Q. Okay. And then in the middle of the page,  
24 or I guess about two-thirds of the way down, there's  
25 a reference to: Nancy/Amanda, are both packages

1 ready? Sudan and South Sudan -- I'm sorry, are both  
2 packages (Sudan and South Sudan) ready?

3 Do you see that?

4 A. I see it.

5 Q. Okay. Do you recall TPS determinations  
6 being made as to Sudan and South Sudan at the same  
7 time?

8 MR. KIRSCHNER: Objection; outside  
9 the scope.

10 A. But I don't recall the timing.

11 Q. Okay.

12 A. I know that they're around the same time.  
13 I don't remember if they were the exact same time.  
14 I think that they were, but I don't know for sure.

15 Q. And in the TPS context, what do packages  
16 generally refer to?

17 A. I don't know.

18 Q. Okay.

19 MR. KIRSCHNER: On this document, I  
20 just want to note that it would be subject to the  
21 protective order that we can discuss outside of the  
22 context of this deposition.

23 MS. DEGEN: Okay.

24 (Whereupon, Exhibit 26 was marked for  
25 identification.)

1 Q. All right. You have before you what's  
2 been marked as Exhibit 26, Bates number  
3 AREL SALVADOR 00000041.

4 It's an October 31, 2017 memorandum for  
5 the Deputy Chief of Staff from Scott Krause.  
6 Subject: TPS recommendations for El Salvador,  
7 Honduras, and Nicaragua.

8 Do you know who Scott Krause is?

9 A. No.

10 Q. In the text of the memo, there's a  
11 reference to -- this is the second sentence -- the  
12 Office of Policy, PLCY.

13 Is it fair to read that as the Office of  
14 Policy for Department of Homeland Security?

15 A. I'm not familiar with this particular  
16 e-mail, but in the overall context, that makes  
17 sense, yes.

18 Q. Is that how you've seen Office of Policy  
19 for DHS be referred to before?

20 A. Yes.

21 Q. Okay. And when someone's referring to the  
22 Office of Policy and Strategy in USCIS, they would  
23 typically say Office of Policy and Strategy?

24 A. Yes, or OP&S.

25 Q. Okay. Thank you.



1           The memo refers to -- the first sentence  
2   says: U.S. Citizenship and Immigration Services  
3   (USCIS) prepared this package outlining their  
4   recommendations for granting temporary protected  
5   status (TPS) to El Salvador, Honduras, and  
6   Nicaragua.

7 Are you aware of any other circumstances  
8 where USCIS prepared a recommendation package  
9 involving multiple countries?

10           A.    No, other than possibly Sudan and South  
11   Sudan.

12 Q. Do you recall seeing a USCIS package  
13 outlining recommendations for El Salvador, Honduras,  
14 and Nicaragua?

15 MR. KIRSCHNER: Objection.

16 Q. All together?

17 MR. KIRSCHNER: Objection; outside of  
18 the scope.

19           A.    I don't recall seeing such a package.

20 MS. DEGEN: Let's mark the next one.

21                   (Whereupon, Exhibit 27 was marked for  
22   identification.)

23 Q. All right. You have before you what's  
24 been marked as Exhibit 27.

25 It has Bates numbers DHS 001659000704

1 through -705.

2 It's an e-mail chain.

3 The subject matter is U//FOUO.

4 Do you know what that's a reference to?

5 A. FOUO I know is usually used for

6 classifying things as for official use only.

7 I don't know what the U is. Probably

8 unclassified.

9 Q. The subject goes on to say: Second  
10 administrative revision 1A[sic]: Implications if  
11 temporary protected status expires for beneficiaries  
12 from El Salvador, Honduras, Haiti, and Nicaragua,  
13 dated 2 November 2017.

14 Do you know what "Second administrative  
15 revision 1A" refers to?

16 MR. KIRSCHNER: Objection; outside of  
17 the scope.

18 Q. Let me ask it again. I'm not sure if we  
19 caught your answer.

20 Do you know what "second administrative  
21 revision 1A" refers to?

22 A. I do not.

23 Q. Have you ever seen a reference to an  
24 administrative revision before?

25 A. No.

1 Q. In the e-mail chain on the first page,  
2 there's a -- the text is blocked out for the most  
3 part, and then there's a line that says: U, please  
4 contact INA PB at HQ.DHS.gov if you have any  
5 questions or concerns.

6 Do you know what INA PB refers to?

7 A. I do not.

8 Q. On the last page, there's a reference to  
9 the Planning, Production, and Standards Division,  
10 Department of Homeland Security.

11 Do you know what that division does?

12 A. No.

13 Q. Have you ever heard of them before?

14 A. No.

15 Q. When TPS terminates for a beneficiary,  
16 what happens to their immigration status?

17 A. They revert back to whatever status they  
18 had before, provided that status hadn't already  
19 expired -- or if they've acquired some other status  
20 in the meantime, then that would be their status.

21 Q. Does Service Center Operations have any  
22 communications with ICE about TPS terminations?

23 A. Well, I can't speak for any communications  
24 that might happen, but not -- not routinely. Not  
25 that I can think of any.

1 Q. For the TPS terminations that have taken  
2 place over the last year for the four countries in  
3 this lawsuit, have there been any communications  
4 between Service Center Operations and ICE without  
5 the beneficiaries?

6 A. I can't speak for all 6,000 people who  
7 work for me. I can't imagine what the reason would  
8 be for such a communication.

9 I mean -- so ICE might reach out to  
10 anybody looking to confirm the status of somebody  
11 that they've encountered, and that might include  
12 somebody who had TPS that had been terminated.

13 Q. Has Service Center Operations  
14 affirmatively provided information to ICE  
15 identifying TPS beneficiaries who are subject to  
16 termination?

17 A. Not that I know of.

18 Q. Were you in any --

19 A. I want to make a distinction between  
20 termination and withdrawal.

21 So I don't know of any instances or any  
22 examples, but I'm sure that in the many years, if we  
23 have denied a reregistration because somebody was a  
24 convicted criminal, and then we withdraw their TPS  
25 or their TPS was terminated -- well, we would have

1 withdrawn their TPS -- that that might have been  
2 communicated to ICE on an individual basis.

3 Q. Okay. So you make a distinction between  
4 an individual communication versus giving ICE  
5 information on, for example, all TPS beneficiaries?

6 A. Correct.

7 Q. Okay.

8 MR. KIRSCHNER: I just want to object  
9 that that was assuming representatives -- he was  
10 referring to a situation of -- you make it sound  
11 like an individual -- I didn't understand the  
12 deponent as saying that. I think he was referring  
13 to when such a situation would occur.

14 I thought there was like -- that the  
15 restating of it was a bit different than the way  
16 Mr. Neufeld had said it.

17 MS. DEGEN: Okay.

18 MR. KIRSCHNER: I would like his  
19 words to speak for themselves.

20 Q. So I want to make sure that I understand.

21 There may have been some circumstances  
22 over the years where if an individual lost their TPS  
23 status, that may have been communicated to ICE with  
24 respect to that individual?

25 A. That's correct.

1 Q. That's correct, okay.

2 But Service Center Operations has not  
3 informed ICE of the identities of TPS beneficiaries  
4 from El Salvador who are subject to losing their TPS  
5 status?

6 A. That's also correct.

7 Q. Okay. And it's the same for Sudan,  
8 Nicaragua, and Haiti?

9 A. Yes.

10 Q. Have there been requests from ICE about  
11 TPS holders generally from these four countries?

12 A. Not that I'm aware of.

13 Q. There may have been on an individual  
14 basis, but not generally?

15 A. That's correct.

16 Q. Were you in any meetings regarding  
17 changing the interpretation of the temporary  
18 protected status law?

19 MR. KIRSCHNER: Objection. That's  
20 outside the scope.

21 A. And I don't understand the question.

22 Q. Okay. Sure.

23 You understand that TPS is established by  
24 statute --

25 A. Yes.

1 Q. -- right?

2 Have you been in any meetings where it was  
3 discussed whether to change how USCIS interprets  
4 that statute?

5 A. No.

6 Q. Have you been involved in any  
7 communications about changing the interpretation of  
8 the statute?

9 A. No.

10 Q. Have you seen anything that made you  
11 wonder how the Secretary of Department of Homeland  
12 Security has gone from routinely extending TPS for  
13 the four countries at issue to terminating them all  
14 in the same year?

15 A. No.

16 Q. Have you seen any explanation for that  
17 change other than the Federal Register Notices?

18 MR. KIRSCHNER: Objection; assuming  
19 facts not in evidence. It's assuming there is a  
20 change.

21 Q. I think we can establish -- can we all  
22 agree that for these -- the four countries at issue  
23 here that TPS was extended multiple times?

24 A. Yes.

25 Q. Okay. And that in the last year, TPS has

1     been terminated --

2           A.     Yeah.

3           Q.     -- for each of the four countries?

4           A.     Yes.

5           Q.     Other than the Federal Register Notices,  
6     have you seen any documents explaining the decisions  
7     to terminate for those four countries?

8           A.     No.

9           Q.     Are you aware of any communications  
10    between anyone at USCIS and the Center for  
11    Immigration Studies?

12          A.     No.

13          Q.     Are you aware of any communications  
14    between anyone at USCIS and NumbersUSA?

15                   MR. KIRSCHNER: Also, I want to say  
16    objection. These questions are clearly outside the  
17    scope of the 30(b)(6) testimony.

18          A.     Well, I need to clarify my answer before.

19                   I get e-mail, I'm on some list that they  
20    have to send their -- whatever their communications.  
21    So I receive messages from CIS, so I'm sure that  
22    others must get that too.

23          Q.     Okay.

24          A.     But no dialogue, that I'm aware of.

25          Q.     Have you ever e-mailed them back?



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1 A. No.

2 Q. What kinds of things do these e-mails say?

3 A. It's just their weekly report. I'm sure  
4 that's available on the web if you want it.

5 Essentially they're propaganda.

6 Q. How about FAIR, do you receive e-mails  
7 from -- what's the acronym -- do you receive e-mails  
8 from the Federation for American Immigration Reform?

9 A. No.

10 MR. KIRSCHNER: Objection. Again,  
11 outside the scope. All these questions about these  
12 communications are just outside the scope of the  
13 30(b)(6) testimony.

14 Q. Are you aware of anyone at USCIS  
15 communicating with FAIR?

16 A. No.

17 Q. And I have the same question for  
18 NumbersUSA.

19 MR. KIRSCHNER: Again objection,  
20 outside the scope.

21 MS. DEGEN: I'll give you a standing  
22 objection while I get through my list here.

23 MR. KIRSCHNER: Okay.

24 A. No.

25 Q. And do you have any communications from

1 NumbersUSA?

2 A. No.

3 Q. Are you aware of any meetings between  
4 individuals at USCIS and staff at the White House  
5 regarding TPS?

6 A. No.

7 Q. Have you ever met with anyone from the  
8 White House regarding TPS?

9 A. No.

10 Q. Regarding any other immigration-related  
11 issues?

12 A. Oh, yes.

13 Q. Which issues?

14 MR. KIRSCHNER: Objection; outside  
15 the scope.

16 Q. You can answer.

17 MR. KIRSCHNER: I'm going to instruct  
18 the deponent not to answer on privilege grounds,  
19 including deliberative process and potentially other  
20 privileges.

21 Q. Are you going to listen to your counsel?

22 A. Yes.

23 Q. The meetings that you've had with  
24 individuals from the White House regarding  
25 immigration issues, were there other people in those

1 meetings besides you and individuals from the White  
2 House?

3 A. Yes.

4 Q. Who were the individuals from the White  
5 House?

6 A. So I'm having -- I'm trying to remember  
7 when the last time that happened.

8 There's meetings with White House  
9 individuals on -- I'm trying to remember.

10 Well, actually, the easy answer is I don't  
11 remember the names of anybody in the White House  
12 that I've met with because they keep changing.

13 On our side, most recently, Kathy Nuebel  
14 Kovarik attended along with me.

15 Q. Anyone else on your side?

16 A. I'm having trouble pulling specific  
17 instances to remember.

18 Q. Okay. Is there a particular group at the  
19 White House that you meet with?

20 MR. KIRSCHNER: Objection; vague.

21 Q. I'm trying to help pin down who the  
22 individuals might be.

23 Is there a particular committee or  
24 subgroup that you understand you're meeting with?

25 A. It depends on the subject matter.

1           The other thing is -- you know, it depends  
2   on what you mean by a meeting at the White House.  
3   So the....

4                   There were a number of meetings with OMB,  
5    which is at the White House, regarding backlog  
6    elimination efforts.

7 Q. And I'm referring to, you know, staff from  
8 the White House.

9                   This meeting that you recall with Kathy  
10   Nuebel Kovarik, do you recall any other individuals  
11   who participated in that meeting?

12           A.   Not specifically, no.

13 Q. And do you recall how long ago that was?

14           A.    Yeah, probably a year and a half ago, two  
15   years ago.

16 Q. Was she already at USCIS at the time of  
17 this meeting?

18                    A.     Yes.

19 Q. The meeting that you recall with Kathy  
20 Nuebel Kovarik, do you recall just the general  
21 subject matter of the meeting?

22                   A.     Yes.

23 MR. KIRSCHNER: Again, I'm going  
24 to -- this is so outside the scope -- it is  
25 harassment as well.

1 Mr. Neufeld has already testified  
2 that he was not about temporary protected status.

3 Anything else about any other  
4 questions outside of temporary protected status is  
5 beyond the pale, and I would -- and I -- because I  
6 don't even know where this is going, I don't know  
7 what privileges are implicated here, and I would --  
8 I think that this is harassment.

9 And I would instruct Mr. Neufeld not  
10 to answer to the extent this is calling for internal  
11 deliberations or other privileges that may be  
12 touched upon, and I would ask counsel that given  
13 that Mr. Neufeld has already made clear that he has  
14 not had meetings at the White House about temporary  
15 protected status, that counsel would refrain a from  
16 further questioning on this subject.

17 Q. Did the meeting involve immigration  
18 matters?

19 A. Yes.

20 Q. How many people were at the meeting?

21 A. Probably nine or ten.

22 Q. And how long did the meeting take?

23 A. An hour.

24 Q. Even if you don't recall individual names,  
25 can you recall departments or agencies that the

1 other individuals worked with?

2 A. Not specifically, no.

3 Q. Do you recall functions?

4 A. Frankly, it would be easier to say what  
5 the subject matter is.

6 Q. If you want to take a break and step out  
7 it, may focus this down. But....

8 MR. KIRSCHNER: I just think this is  
9 completely out of line, and I really think that this  
10 whole line of questioning, he's already answered  
11 that this is not about temporary protected status,  
12 he's already answered the general question about  
13 immigration, and I would ask counsel to refrain from  
14 further questioning on this subject. The First  
15 Amendment is not related to this litigation.

16 Q. Where did the meeting take place?

17 MS. AFANEH: You know what, I think  
18 we need a minute.

19 MR. KIRSCHNER: No. Well, a minute,  
20 but I don't -- can we have two minutes?

21 MS. DEGEN: Sure.

22 MR. KIRSCHNER: And I want to talk  
23 just with counsel just to....

24 VIDEOGRAPHER: Going off the record.  
25 The time is 6:01 p.m.

1 (Whereupon, a recess was taken.)

2 (Whereupon, Exhibit 28 was marked for  
3 identification.)

4 VIDEOGRAPHER: Back on the record.

5 The time is 6:03 p.m.

6 BY MS. DEGEN:

7 Q. All right. Mr. Neufeld, before we took a  
8 break, I had asked the question where this meeting  
9 took place.

10 A. At the White House.

11 Q. Other than Ms. Nuebel Kovarik, did the  
12 meeting include any other individuals from USCIS?

13 A. Not that I recall.

14 Q. How about Department of Homeland Security?

15 A. It's possible. I don't remember anybody  
16 in particular.

17 Q. Did the meeting include anyone who has  
18 since joined USCIS?

19 A. No.

20 Q. Did it include anyone who has since joined  
21 Department of Homeland Security?

22 A. Not that I'm aware of, no.

23 Q. Did it include any nongovernment  
24 employees?

25 A. No.

1 Q. Have you ever heard of the Domestic Policy  
2 Council?

3 A. Yes.

4 Q. Did this meeting include anyone from the  
5 Domestic Policy Council?

6 A. Not that I recall.

7 Q. What is your understanding of the Domestic  
8 Policy Council?

9 A. They consider domestic policy issues.

10 Q. Did this meeting involve staff, political  
11 appointees, both -- setting aside  
12 Ms. Nuebel Kovarik?

13 A. I don't understand.

14 Q. Okay. If I understand correctly, there's  
15 some positions in government that are appointed by a  
16 particular administration. And my understanding  
17 could be just not entirely correct.

18 A. That's a correct understanding.

19 Q. That's a correct understanding. Okay.  
20 And there are some positions that are --  
21 someone -- a career position versus a political  
22 position?

23 A. That's correct.

24 Q. Okay. This meeting, did it include  
25 individuals who are in political positions?



1 A. Yes. Kathy is in a political position.

2 Q. And you're in a career position.

3 Is that fair?

4 A. I'm in a career, yes.

5 Q. Did it include any other individuals in  
6 career positions?

7 A. I'm sure it did.

8 Q. Do you recall what kind of positions?

9 A. I don't recall.

10 Q. Do you have any documents related to this  
11 meeting?

12 A. No.

13 Q. How was the meeting set up?

14 A. I don't know. I know I was asked to go.

15 Q. Were you -- who asked you?

16 A. It might have been Kathy Nuebel Kovarik,  
17 but I'm not 100 percent sure.

18 Q. Did the person who asked you ask you in  
19 person or via e-mail?

20 A. I don't -- I don't remember.

21 Q. Would this meeting -- would you have put a  
22 note about it in your calendar, a placeholder in  
23 your calendar for the meeting?

24 MR. KIRSCHNER: Objection. This is  
25 really getting to be harassing.

1                   He's already answered plenty of  
2   questions. I've allowed a lot of questions go  
3   forward on this. I've made it clear, my objection  
4   is this is clearly outside the scope of the  
5   30(b)(6), not even close to the scope of the  
6   30(b)(6), and it's outside of the scope of this  
7   litigation.

8 Q. Would you like me to ask my question  
9 again?

10                    A.     Yes.

11 Q. For this meeting, is this the type of  
12 meeting that you would have made an entry in your  
13 calendar for?

14           A.    I don't remember.

15 Q. When you have meetings, do you typically  
16 make an entry in your calendar for them?

17           A.     Usually, yes.

18 Q. And do you have any reason to think you  
19 would not have followed that practice for this  
20 meeting?

21                      A.                      No.

22 Q. Do you recall receiving a document hold  
23 relating to TPS litigation?

24 MR. KIRSCHNER: Objection to the  
25 extent it calls for attorney-client communication.

1 I'm going to instruct you not to  
2 answer to the extent that this is communications  
3 that you had with counsel.

4 MS. DEGEN: Well, Ms. Nuebel Kovarik  
5 testified at some length about having received a  
6 document hold and how she -- you know, how they're  
7 circulated.

8 I just want to know, you know, he's  
9 here as a witness. Have documents been held?

10 MR. KIRSCHNER: Ms. Nuebel Kovarik  
11 was designated to discuss that matter. Mr. Neufeld  
12 is not.

13 MS. DEGEN: Okay.

14 MR. KIRSCHNER: But that's fine, I  
15 will let the question of whether he received one to  
16 go forward.

17 Q. Did you receive a document hold relating  
18 to the TPS litigation?

19 A. I believe so, yes.

20 Q. And have you retained your documents  
21 relating to TPS?

22 A. I retain every document for the most part,  
23 yes.

24 Q. All right. I'll give you one last quick  
25 set of questions here.

1           You have before you what has been marked  
2   as Exhibit 28. And it's another couple of e-mails.

3 I'm referring you to the top e-mail dated  
4 October 26, 2017, from Kathy Nuebel Kovarik to  
5 Francis Cissna, James McCament, and someone whose  
6 name is blacked out.

7 Do you recall receiving this e-mail?

8                      A.                      No.

9 Q. The second sentence in the top e-mail  
10 says: The memos are nearly revised to take out DED  
11 and add info on their original designation.

12           And I'm sorry, I should back up. The  
13   subject line is: TPS rollout coordination, El  
14   Salvador, Guatemala, Haiti, Honduras.

15           Do you know what's meant by, "rollout  
16   coordination for TPS"?

17           A.    No, none of this makes sense to me because  
18    I don't understand why Guatemala would be in there,  
19    so I don't understand any of this.

20 Q. Why does Guatemala being in there make it  
21 not make sense?

22           A.     Because there isn't TPS for Guatemala.

23 Q. Does Guatemala have some other  
24 immigration-related program associated with it?

25           A.     Not that I'm aware of.

1 Q. In the text of the e-mail, there's a  
2 reference: The memos are nearly revised to take out  
3 DED and add info on their original designation.

4 Do you know what DED refers to?

5 A. Most likely deferred enforcement  
6 departure.

7 Q. And do you recall any discussions  
8 concerning TPS and deferred enforcement departure?

9 A. No.

10 Q. Two sentences later there's a statement:  
11 We'll need to ask DPC to coordinate some interagency  
12 comment period.

13 DPC, do you know what that refers to?

14 A. Usually it refers to the Domestic Policy  
15 Council.

16 Q. And what role does the Domestic Policy  
17 Council have in interagency comment periods related  
18 to TPS?

19 A. I don't know.

20 Q. Are you aware of any circumstances where  
21 the DHS secretary's TPS determination went against a  
22 State Department recommendation?

23 A. I'm not aware of any, no.

24 Q. What is the difference between TPS and  
25 deferred enforcement departure?

1           A.     So I'm not an expert on deferred  
2     enforcement departure. I understand that it's  
3     related to TPS and that it's something that the  
4     secretary can choose to do to transition folks out  
5     of TPS, but I don't really remember the particulars.

6           Q.     Is there deferred enforcement departure  
7     used with any other categories of immigrants?

8           A.     You mean other than TPS?

9           Q.     Other than TPS.

10          A.     I don't think so, but I don't know for  
11     sure.

12          Q.     What does "deferred enforcement departure"  
13     entail?

14          A.     I really don't know.

15                 My vague recollection and understanding is  
16     that it's similar to TPS but that it's not TPS.

17                 In other words, the message that's being  
18     conveyed is that their enforced departure is being  
19     delayed, but -- so they would still be allowed to  
20     stay here. But I think the intent there is it sends  
21     a signal that it's not going to be extended.

22                 MR. KIRSCHNER: I also want to object  
23     that these questions about deferred enforcement  
24     departure or DED are outside the scope of the  
25     30(b)(6) testimony.

1 Q. Does someone with DED have the right to  
2 work in this country?

3 A. I believe so, yes.

4 Q. All right. Last few questions: Do you  
5 know Miles Taylor?

6 A. No.

7 Q. Eric Jones?

8 A. No.

9 Q. Kate Nichols?

10 A. Nope.

11 Q. Or Kate Alford?

12 A. No.

13 Q. Arex Avanni?

14 A. No.

15 Q. David Glawe or Glawe?

16 A. No.

17 Q. Do you know James Nealon?

18 A. No.

19 Q. Also known as Ambassador Nealon?

20 A. No.

21 Q. Are you familiar with Stephen Miller's  
22 working group on immigration?

23 A. No.

24 Q. Okay.

25 MR. KIRSCHNER: I just wanted to

1 object that that's outside the scope of the  
2 30(b)(6), the last question.

3 MS. DEGEN: So we are done with our  
4 questioning.

5 With respect to the 30(b)(6) notice,  
6 we do not agree that it has been fully satisfied.

7 There have been a number of questions  
8 we think are fairly within the scope of the notice  
9 that the two witnesses were not able to answer.

10 We'll address those with counsel  
11 separately outside this deposition.

12 But in the meantime, I think that is  
13 it.

14 THE WITNESS: All right.

15 MS. DEGEN: Thank you.

16 MR. KIRSCHNER: Two things. First I  
17 want to respond to that, and second I want to have a  
18 moment with my colleagues to make sure we don't have  
19 any follow-up questions.

20 But on that point, I want to say that  
21 our response is that we feel we have complied  
22 completely with the 30(b)(6) and that our objections  
23 and responses were as stated in the July 13th letter  
24 that identifies the full scope of their testimony,  
25 and that we said we would make them available with



1 the agreement -- with the understanding that their  
2 testimony would be limited as it's identified within  
3 the scope of that letter.

4 And we believe that we have complied  
5 with the scope of that letter and are in compliance  
6 with the 30(b)(6).

7 With that said, I would like to have  
8 just a two-minute break to talk to my colleagues to  
9 make sure that we don't have any follow-up  
10 questions.

11 VIDEOGRAPHER: Going off the record.  
12 The time is 6:17 p.m.

13 (Whereupon, a recess was taken.)

14 VIDEOGRAPHER: Back on the record.  
15 The time is 6:21 p.m.

16 MR. KIRSCHNER: We have no questions  
17 on our end.

18 MS. DEGEN: Okay. Thank you.

19 VIDEOGRAPHER: This concludes the  
20 deposition of Donald Neufeld.

21 Going off the record. The time is  
22 6:21 p.m.

23 (Ending time: 6:21 p.m.)

24

25

1 DISTRICT OF )

2 ) ss:

3 COLUMBIA )

4

5 I, DONALD WARREN NEUFELD, the  
6 witness herein, having read the foregoing testimony  
7 of the pages of this deposition, do hereby certify  
8 it to be a true and correct transcript, subject to  
9 the corrections, if any, shown on the attached page.

10

11

12

\_\_\_\_\_  
DONALD WARREN NEUFELD

13

14 Sworn and subscribed to

15 before me this \_\_\_\_\_ day

16 of \_\_\_\_\_, 2018.

17

18

\_\_\_\_\_  
NOTARY PUBLIC

20

21

22

23

24

25

1 DISTRICT OF COLUMBIA )

2 : ss

3

4 I, SUSAN ASHE, a Registered Merit Reporter  
5 and Notary Public, do hereby certify:

6 That the foregoing proceedings were taken before  
7 me at the time and place herein set forth; that any  
8 witnesses in the foregoing proceedings, prior to  
9 testifying, were placed under oath; that a verbatim  
10 record of the proceedings was made by me using machine  
11 shorthand which was thereafter transcribed under my  
12 direction; further, that the foregoing is a true record  
13 of the testimony given.

14 Before completion of the deposition, review of  
15 the transcript [X ] was [ ] was not requested. If  
16 requested, any changes made by the deponent (and provided  
17 to the reporter) during the period allowed are appended  
18 hereto.

19 I further certify that I am not interested in  
20 the outcome of the action.

21 WITNESS my hand this date August 10th, 2018.

22

23

24

25 My Commission Expires: May 31, 2022

DONALD WARREN NEUFELD, 30(B)(6) - 08/09/2018

1 Errata Sheet

2

3 NAME OF CASE: CRISTA RAMOS vs. KIRSTJEN NIELSEN

4 DATE OF DEPOSITION: 08/09/2018

5 NAME OF WITNESS: DONALD WARREN NEUFELD, 30(B)(6)

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

11 From \_\_\_\_\_ to \_\_\_\_\_

12 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

13 From \_\_\_\_\_ to \_\_\_\_\_

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22 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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25 \_\_\_\_\_

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